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## Title 6—AGRICULTURAL CREDIT

### Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

#### SUBCHAPTER D—REGULATIONS UNDER SOIL BANK ACT

[Amdt. 30]

#### PART 485—SOIL BANK

##### Subpart—Conservation Reserve Program

##### SUCCESSORS-IN-INTEREST

The regulations governing the conservation reserve part of the Soil Bank Program, 21 F. R. 6289, as amended, are hereby further amended by adding a new subparagraph (4) at the end of § 485.169 (b) as follows:

(4) Effective with respect to contracts under which 1959 or a subsequent year is the first year of the contract period, the lease of all or part of the farm by a producer signatory to the contract shall not be considered a loss of control under subparagraph (1) of this paragraph. Such a producer shall not be relieved from carrying out his obligations under the contract with respect to the acreage leased and shall continue to be subject to section 123 of the Soil Bank Act, which imposes a civil penalty upon any producer who knowingly and willfully grazes or harvests a crop from any acreage in violation of the contract. Unless such producer obtains the agreement of the lessee, on a form prescribed by the Administrator, to carry out the terms of the contract during the term of the lease, the grazing of, or the harvesting of a crop from, any acreage in violation of the contract, by the lessee or any other person connected with the farm under the lease shall be deemed to have been knowingly and willfully committed by such producer.

(Sec. 124, 70 Stat. 198; 7 U. S. C. 1812)

Issued at Washington, D. C., this 7th day of January 1959.

[SEAL]

TRUE D. MORSE,  
Acting Secretary.

[F. R. Doc. 59-251; Filed, Jan. 9, 1959;  
8:49 a. m.]

[Amdt. 29]

#### PART 485—SOIL BANK

##### Subpart—Conservation Reserve Program

##### AWARDING CONSERVATION RESERVE CONTRACTS IN 1959 AND SUBSEQUENT YEARS

The regulations governing the conservation reserve part of the Soil Bank Program, 21 F. R. 6289, as amended, are hereby further amended by inserting immediately after the first sentence of § 485.185 (d) the following: "Where a producer's offer is in excess of the maximum annual per acre payment rate as a result of an error made by the county committee in establishing such rate, the producer's application shall be treated as an offer of the land at the corrected maximum annual per acre payment rate for the farm."

(Sec. 124, 70 Stat. 198; 7 U. S. C. 1812)

Issued at Washington, D. C., this 7th day of January 1959.

[SEAL]

TRUE D. MORSE,  
Acting Secretary.

[F. R. Doc. 59-253; Filed, Jan. 9, 1959;  
8:49 a. m.]

#### PART 485—SOIL BANK

##### Subpart—Violations Procedure

##### MISCELLANEOUS AMENDMENTS

The Soil Bank regulations applicable to violations, 22 F. R. 2411, as amended, are hereby further amended as follows: § 485.294 [Amendment]

1. Section 485.294 (a) is amended by deleting the words "annual payment rate established for the farm" in the

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proviso and inserting in lieu thereof the following: "or non-diversion annual payment rate, whichever is applicable to the area harvested".

### § 485.294f [Amendment]

2. Section 485.294f (b) is amended by adding immediately at the end thereof the following: "(Effective with respect to contracts under which 1959 or a subsequent year is the first year of the contract period, the provisions of this paragraph shall not apply to a cash tenant, standing-rent tenant, or a fixed-rent tenant unless such tenant was living on the farm in the year immediately preceding the first year of the contract period or received 50 percent or more of his income in such year from the farm covered by the contract.)"

### §§ 485.294k, 485.294n [Redesignation]

3. Section 485.294k is redesignated as § 485.294n.

4. New §§ 485.294k, 485.294l, and 485.294m are inserted immediately after § 485.294j as follows:

§ 485.294k Forfeiture or refund of cost-sharing payments applicable only with respect to payments paid or payable to producers on farm in the year in which the violation occurred.

In any case where the regulations in this subpart require that cost-sharing payments be forfeited or refunded, such forfeiture or refund shall apply only with respect to cost-sharing payments paid or payable to persons who were producers on the farm in the year in which the violation occurred.

§ 485.294l Liability of producers who signed the conservation reserve contract for refund of compensation forfeited by tenants and sharecroppers.

In any case where any annual or cost-sharing payment paid a tenant or sharecropper who did not sign the conservation reserve contract is forfeited and required to be refunded under the provisions of this subpart, the producers signatory to the conservation reserve contract in the year in which the violation occurred shall be jointly and severally obligated with the tenant or sharecropper to make such refund.

§ 485.294m Computing refund or forfeiture of cost-sharing payments.

For purposes of computing a refund or forfeiture, cost-sharing payments shall be considered as payable if the practice has been performed prior to the time of the violation or during the year in which the violation occurs or if the practice approval calls for performance during such period even though it is not actually performed during such period. Cost-sharing payments shall be considered as paid or payable for the year in which the violation occurred if the practice is performed during such year or if the practice approval calls for performance during such year even though it is not actually performed during such year. The amount of cost-sharing payments paid or payable shall be determined as of the date of the final determination by the State committee.

§ 485.295 [Amendment]

5. Section 485.295 is amended by inserting immediately after the second sentence the following: "For purposes of this section, practice payments shall be considered as payable for compliance with the contract for the year in which the violation occurs if the practice is performed during such year or if the practice approval calls for performance during such year even though it is not actually performed during such year. The amount of cost-sharing payments payable shall be determined as of the date of the final determination by the State committee."

(Sec. 124, 70 Stat. 198; 7 U. S. C. 1812)

Issued at Washington, D. C., this 7th day of January 1959.

[SEAL]

TRUE D. MORSE,  
Acting Secretary.

[F. R. Doc. 59-252; Filed, Jan. 9, 1959;  
8:49 a. m.]

## Title 7—AGRICULTURE

### Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

[Amdt. 2]

#### PART 728—WHEAT

#### Subpart—Regulations Pertaining to Farm Acreage Allotments for the 1959 Crop of Wheat

##### INCREASED DURUM WHEAT (CLASS II) ALLOTMENTS

*Basis and purpose.* The amendments herein are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, including the amendments in Public Law 85-390, and govern the establishment of special 1959 farm wheat acreage allotments and marketing quotas for the production of Durum Wheat (Class II) in the counties of Modoc and Siskiyou, California.

The definition of "Durum Wheat (Class II)" is taken from the Official Grain Standards of the United States for wheat. The additional provisions of the regulations are necessary to put into effect the provisions of Public Law 85-390.

Public Law 85-390 provides for a special program for the increased production of Durum Wheat (Class II) for the Tulalake area of Modoc and Siskiyou Counties, California, for the years 1958 and 1959. This legislation was not enacted in 1958 until after the close of the 1958 planting season for Durum Wheat (Class II) in the affected area. Some farmers in anticipation of the enactment of the new law seeded acreages to Durum Wheat (Class II) in 1958 in excess of the acreages which normally would have been seeded or which could have been seeded on complying farms under the pending legislation. Most farmers in the area, however, seeded less Durum Wheat (Class II) than they would have seeded if the legislation had been enacted prior to the beginning of the seeding season. As a result there was available for allotment sufficient acreage in 1958 to cover all acreage of Durum Wheat (Class II) seeded in the area, and such allotment acreage was apportioned as needed to cover the acreages seeded on all farms in the area. In view of the fact that certain farms were thus permitted to harvest larger acreages than they otherwise could have done and remain in compliance with their special acreage allotments, it has been determined that in the second year of a two-year program it would be proper to make downward adjustments in the special allotments for such farms. Such adjustments have been provided for.

One of the primary purposes of the legislation was to provide assistance in an area made up largely of homesteads of 100 acres or less in size. Some of the farmers in the area have acquired additional lands, in the form of either addi-

tional homesteads or leased lands, which they operate as single farming units in conjunction with their original homestead tracts. In furthering the legislative intent special consideration has been given to farms composed of one homestead by making provision for downward adjustments in the allotment indications for farms composed of more than one homestead or containing additional leased land.

Prior to preparing the regulations in this subpart, public notice (23 F. R. 7862) was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to these regulations in § 728.926 which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 728.911 [Amendment]

1. Section 728.911 is amended by adding two new paragraphs (r) and (s) to read as follows:

(r) "Durum Wheat (Class II)" means the three sub-classes of Durum Wheat (Class II) specified in the Official Grain Standards of the United States for Wheat (Part 26 of this title) which are: Sub-class (A) Hard Amber Durum; Sub-class (B) Amber Durum; and Sub-class (C) Durum.

(s) "Other wheat" means wheat other than Durum Wheat (Class II).

2. A new § 728.926 is added to read as follows:

§ 728.926 Increase in acreage allotments for production of Durum Wheat (Class II).

(a) The special acreage allotments established under the provisions of this section shall be established by the county committees and shall be reviewed and approved by the State committee or on behalf of the State committee by the State administrative officer, program specialist, or farmer fieldman, and the State committee may revise or require revision of any determination made under regulations in this section, for farms in the irrigable portion of the area known as the Tulalake division of the Klamath project of California, located in Modoc and Siskiyou Counties, California, as defined by the United States Department of the Interior, Bureau of Reclamation, on the basis of tillable acreage, crop-rotation practices, type of soil, and topography, as provided in paragraphs (b) to (e) of this section.

(b) In order for a farm to be eligible for a special allotment under this section, the owner or operator of the farm must make a written application to the county committee for such allotment on a form prescribed by the Director not later than January 16, 1959. If the producer is unable to file the written application by January 16, 1959, he may file a late application, which shall be eligible for a special allotment only if the county committee finds that the producer could not file the application by January 16, 1959, for reasons beyond his control. Any such late application shall be eli-

gible for a special allotment only to the extent that there is reserve acreage available therefor. The application shall show the acres of cropland on the farm, the cropland suitable for the production of Durum Wheat (Class II) on the basis of the type of soil and topography of the farm, the acreages of Durum Wheat (Class II), other wheat, and each other crop on the farm for the years 1954 through 1959, the acreage of each such crop planted or intended to be planted on the farm for 1959, and the special acreage allotment requested for 1959 under this section.

(c) The acreage available for allotment under this section shall be 8,000 acres, less the total acreage allotted to farms in the Tulake area (as defined in paragraph (a) of this section) under other sections of the regulations in this subpart.

(d) In establishing special allotments under this section, there shall be determined for each eligible farm an allotment indication which shall be (1) the number of acres of cropland on the farm suitable for the production of Durum Wheat (Class II) on the basis of tillable acres, type of soil and topography, less the allotment established for the farm under other provisions of this subpart (hereinafter referred to as the "original allotment"), multiplied by (2) the ratio of the acreage available for allotment as determined under paragraph (c) of this section to the total acreage on eligible farms in the Tulake area of cropland suitable for the production of Durum Wheat (Class II) less the total of the original allotments for eligible farms in the area. This allotment indication may be reduced as follows: (i) To reflect the crop-rotation system established or to be established for the farm; (ii) to reflect the additional allotment determined for the farm for 1958 above the allotment indication which would otherwise have been determined due to the availability of unallotted acreage as a result of the enactment of the enabling legislation after seeding was completed; and (iii) by limiting the allotment indication for any farm composed of more than one homestead or containing additional leased land to that determined on the basis of 100 acres of cropland suitable for the production of Durum Wheat (Class II). The special allotment shall be determined by apportioning pro rata the acreage available for apportionment among eligible farms on the basis of the adjusted allotment indications, but the special allotment shall not exceed the increase in allotment requested for the farm. Any acreage not apportioned because of being in excess of the acreage requested shall be placed in a reserve and used for the correction of errors, late applications as provided in paragraph (b) of this section, and for upward adjustments in the special allotments hereunder for farms on which the intended acreage of Durum Wheat (Class II) of the 1959 crop would because of crop-rotation practices be in excess of the allotments computed under the formula in this paragraph.

(e) The special allotment for any farm under this section is conditioned upon the use of the allotment for the

production of Durum Wheat (Class II), and no wheat produced on such farm shall be eligible for price support. Such special allotment shall be reduced to the extent that it is not so used, and the amount of such reduction shall be placed in the reserve provided for under paragraph (d) of this section.

(f) For the purposes of wheat marketing quotas, the wheat acreage allotment for the farm shall be the sum of the original allotment and the special allotment under this section. The special allotments under this section shall be in addition to National, State, and county wheat acreage allotments for the 1959 crop year, but the acreage of Durum Wheat (Class II) on such special allotments shall be considered in establishing future State, county, and farm acreage allotments.

(g) The acreage available for allotment under this section shall be divided by the State committee between Modoc and Siskiyou Counties on the basis of the acreages allotted to farms under this section in the respective counties.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375)

Issued at Washington, D. C., this 7th day of January 1959.

[SEAL] TRUE D. MORSE,  
Acting Secretary of Agriculture.

[F. R. Doc. 59-254; Filed, Jan. 9, 1959;  
8:49 a. m.]

## Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 152]

### PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

#### § 914.452 Navel Orange Regulation 152.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become

effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 8, 1959.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., January 11, 1959, and ending at 12:01 a. m., P. s. t., January 18, 1959, are hereby fixed as follows:

- (i) District 1: 554,400 cartons;
  - (ii) District 2: Unlimited movement;
  - (iii) District 3: Unlimited movement;
  - (iv) District 4: Unlimited movement.
- (2) All navel oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 853, as amended; 7 U. S. C. 608c)

Dated: January 9, 1959

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Market-  
ing Service.

[F. R. Doc. 59-320; Filed, Jan. 9, 1959;  
11:54 a. m.]

[Lemon Reg. 773]

### PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### Limitation of Handling

#### § 953.880 Lemon Regulation 773.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F. R. 9053), regulating the han-

dling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act,

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based become available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 7, 1959.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a. m. P. s. t., January 11, 1959, and ending at 12:01 a. m., P. s. t., January 18, 1959, are hereby fixed as follows:

- (i) District 1: 41,850 cartons;
- (ii) District 2: 148,800 cartons;
- (iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: January 8, 1959.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Division, Agricultural Mar-  
keting Service.

[F. R. Doc. 59-298; Filed, Jan. 9, 1959;  
9:07 a. m.]

## Title 12—BANKS AND BANKING

### Chapter II—Federal Reserve System

#### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. G]

#### PART 207—COLLECTION OF NONCASH ITEMS

##### Designation of Federal Reserve District for Guam

1. Effective January 1, 1959, § 207.54 is added to read as follows:

§ 207.54 Designation of Federal Reserve District for Guam.

For purposes of this part, Guam shall be deemed to be in or of the Twelfth Federal Reserve District.

2. (a) The purpose of this amendment is to designate Guam as being in or of the Twelfth Federal Reserve District so that noncash items payable in Guam may be collected through a Federal Reserve Bank.

(b) The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with this amendment for the reasons and good cause found as stated in paragraph (e) of § 262.2 of the Board's rules of procedure (Part 262 of this chapter), and specifically because in connection with this amendment such procedures are unnecessary as they would not aid the persons affected and would serve no other useful purpose.

(Sec. 11 (1), 38 Stat. 262; 12 U. S. C. 248 (1). Interpret or apply secs. 13, 16, 38 Stat. 263, 265, as amended; 12 U. S. C. 248 (o), 342, 360)

BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM,  
[SEAL] MERRITT SHERMAN,  
Secretary.

[F. R. Doc. 59-234; Filed, Jan. 9, 1959;  
8:46 a. m.]

[Reg. J]

#### PART 210—CHECK CLEARING AND COLLECTION

##### Designation of Federal Reserve District for Guam

1. Effective January 1, 1959, § 210.54 is added to read as follows:

§ 210.54 Designation of Federal Reserve District for Guam.

For purposes of this part, Guam shall be deemed to be in or of the Twelfth Federal Reserve District.

2. (a) The purpose of this amendment is to designate Guam as being in or of the Twelfth Federal Reserve District so that checks drawn on nonmember par-remitting banks located in Guam may be collected through a Federal Reserve Bank.

(b) The notice, public participation, and deferred effective date described in section 4 of the Administrative Procedure Act are not followed in connection with this amendment for the reasons and good cause found as stated in paragraph (e) of § 262.2 of the Board's rules of procedure (Part 262 of this chapter), and specifically because in connection with this amendment such procedures are unnecessary as they would not aid the persons affected and would serve no other useful purpose.

(Sec. 11 (1), 38 Stat. 262; 12 U. S. C. 248 (1). Interpret or apply secs. 13, 16, 38 Stat. 263, 265, as amended; 12 U. S. C. 248 (o), 342, 360)

BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM,  
[SEAL] MERRITT SHERMAN,  
Secretary.

[F. R. Doc. 59-235; Filed, Jan. 9, 1959;  
8:46 a. m.]

## Title 19—CUSTOMS DUTIES

### Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 54763]

#### PART 9—IMPORTATIONS BY MAIL

#### PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

#### PART 11—PACKING AND STAMPING; MARKING, TRADE-MARKS AND TRADE NAMES; COPYRIGHTS

##### Cigars

To correspond with recently amended provisions of the regulations of the Internal Revenue Service relating to the payment to the collector of customs of tax, when due and payable, on cigars imported in passengers' baggage and by mail, where such cigars are for the personal consumption of the importer or for disposition as his bona fide gift, the Customs Regulations are amended as follows:

1. Section 9.8 (a) is amended as follows:

By deleting "cigars," and "or" where those words now appear in the first sentence, and by inserting "or commercial shipments of cigars" following "playing cards"; by substituting "cigars imported for commercial purposes," for "cigars," in the first sentence of subparagraph (1); and by adding new subparagraph (3) to read:

(3) The internal revenue tax on cigars for the personal consumption of an importer or for disposition as his bona fide gift, when such cigars are imported by mail and do not exceed \$250 in aggregate value, shall be paid by using the mail entry as a return, and no internal revenue stamps will be required to be

affixed to packages. The mail entry will separately state the duty and tax due and show the quantity and class designation of the cigars. The tax and duty shall be collected by the postal service for the collector of customs at the time of delivery of the mail shipment to the importer and be transmitted to the collector of customs who issued the entry.

(R. S. 161, 251, sec. 624, 46 Stat. 759, 5 U. S. C. 22, 19 U. S. C. 66, 1624)

2. Section 10.21 (1) is amended to read:

(1) Internal revenue stamps shall be affixed to taxable tobacco products in passengers' baggage with one exception. That exception is that stamps will not be affixed to packages of cigars in passengers' baggage which are for the personal consumption of the importer or for disposition as his bona fide gift. The tax on such cigars shall be paid to customs, using the customs entry form as the return. No customs inspection stamps are required.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

3. Section 11.1 (a) is amended by substituting "except importations by mail or in passengers' baggage," for "except importations by mail."

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624)

These amendments shall be effective on February 1, 1959, which is the effective date of the corresponding amendments of the regulations of the Internal Revenue Service published as T. D. 6341 in the FEDERAL REGISTER on December 20, 1958 (23 F. R. 9809).

[SEAL] D. B. STRUBINGER,  
Acting Commissioner of Customs.

Approved: January 5, 1959.

A. GILMORE FLUES,  
Acting Secretary of the Treasury.

[F. R. Doc. 59-249; Filed, Jan. 9, 1959;  
8:48 a. m.]

## Title 14—CIVIL AVIATION

### Chapter I—Civil Aeronautics Board

#### SUBCHAPTER C—PROCEDURAL REGULATIONS

[Reg. PR-33]

#### PART 301—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

##### Correction

In Federal Register Document 59-101, published at page 99 in the issue for Tuesday, January 6, 1959, the following changes should be made:

1. In § 301.18 (c) (2), the last sentence of subdivision (i) should be changed, as follows:

§ 301.18 Motions to dismiss. \* \* \*

(c) Motion to dismiss stale complaint.  
\* \* \*

(2) \* \* \*  
(i) \* \* \* If not, the Examiner shall proceed as in subparagraph (1) of this paragraph.

2. The last paragraph in the first column on page 103 should be preceded by a section designation, as follows:

§ 301.47 Briefs and oral argument.

Any party may file a brief, \* \* \*

## Title 21—FOOD AND DRUGS

### Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

#### SUBCHAPTER C—DRUGS

#### PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

#### PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

##### Miscellaneous Amendments

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F. R. 9500), the regulations for tests and methods of assay and certification of antibiotic and antibiotic-containing drugs (21 CFR Parts 141c, 146c; 21 CFR 146a.67, 21 CFR, 1957 Supp.) are amended as indicated below:

1. Part 141c is amended by adding the following new section:

§ 141c.246 Tetracycline hydrochloride-neomycin in oil suspension.

(a) *Potency*—(1) *Content of tetracycline hydrochloride*. Proceed as directed in § 141c.237 (a) (2) or § 141c.202 (a). Its content of tetracycline hydrochloride is satisfactory if it is not less than 85 percent of that which it is represented to contain.

(2) *Contents of neomycin*. Proceed as directed in § 141c.237 (a) (3) or as directed in § 141c.242 (a) (2), except first prepare the sample by blending a 1-milliliter aliquot in an appropriate volume of 0.1 M potassium phosphate buffer, pH 8.0, using a highspeed blender. Its content of neomycin is satisfactory if it is not less than 85 percent of that which it is represented to contain.

(b) *Moisture*. Proceed as directed in § 141a.8 (b) of this chapter.

§ 146a.67 [Amendment]

2. Section 146a.67 *Procaine penicillin in streptomycin sulfate solution* \* \* \* is amended in the following respects:

a. Paragraph (a) *Standards of identity* \* \* \* is amended by inserting a comma and the words "a suitable anticholinergic" after the words "suitable antihistaminic" in the third sentence.

b. In paragraph (c) *Labeling*, subparagraphs (1) (iii), (vii), and (ix), (3) (ii) (first sentence), and (4) are amended by inserting the words "an anticholinergic," after the words "an antihistaminic" in each place.

3. Part 146c is amended by adding the following new section:

§ 146c.246 Tetracycline hydrochloride-neomycin in oil suspension.

(a) Tetracycline hydrochloride-neomycin in oil suspension conforms to all requirements and is subject to all procedures prescribed by § 146c.202 for tetracycline hydrochloride ointment, except that:

(1) It contains not less than 10 milligrams of neomycin per milliliter. The neomycin used conforms to the requirements prescribed by § 146e.410. (a) (2) of this chapter, except the standard for toxicity.

(2) If it is intended solely for veterinary use, it may contain one or more suitable fungicides and miticides. If it contains such ingredients, the labeling shall bear the name and quantity of each contained in each milliliter.

(3) Its labeling shall also show the quantity of neomycin contained in each milliliter.

(b) In addition to complying with the requirements of § 146c.202 (d), a person who requests certification of a batch shall submit with his request a statement showing the batch mark and, unless it was previously submitted, the results and the date of the latest tests and assays of the neomycin used in making the batch for potency, moisture, and pH. He shall also submit in connection with his request a sample consisting of not less than 6 packages of such drug and, unless it was previously submitted, a sample consisting of 5 packages containing approximately equal portions of not less than 0.5 gram of the neomycin used in making such batch.

(c) The fees for the services rendered with respect to the samples submitted in accordance with the requirements of this section shall be:

(1) \$5.00 for each immediate container of the oil.

(2) \$4.00 for each sample of neomycin.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for these amendments.

*Effective date*. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

Dated: January 6, 1959.

[SEAL] GEO. P. LARRICK,  
Commissioner of Food and Drugs.

[F. R. Doc. 59-236; Filed, Jan. 9, 1959;  
8:46 a. m.]



# **PART 146b — CERTIFICATION OF STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN- (OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS**

## **Streptomycin- (or Dihydrostreptomycin-) Polymyxin in Gel**

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507 (b) (1), 59 Stat. 463, as amended; 21 U. S. C. 357 (b) (1)) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F. R. 9500), the regulations for the certification of antibiotic and antibiotic-containing drugs (21 CFR, 1957 Supp., 146b.128 (23 F. R. 3034)) are amended as set forth below.

In § 146b.128 *Streptomycin-polymyxin in gel* \* \* \*, paragraph (c) is amended by changing the words "12 months" to read "18 months".

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the amendment has been drawn in collaboration with interested members of the affected industry, and it would be against public interest to delay providing therefor.

**Effective date.** This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

Dated: January 6, 1959.

[SEAL] GEO. P. LARRICK,  
*Commissioner of Food and Drugs.*

[F. R. Doc. 59-246; Filed, Jan. 9, 1959;  
8:48 a. m.]

## **Title 25—INDIANS**

### **Chapter I—Bureau of Indian Affairs, Department of the Interior**

#### **SUBCHAPTER O—RIGHTS OF WAY—ROADS**

### **PART 163 — ESTABLISHMENT OF ROADLESS AND WILD AREAS ON INDIAN RESERVATIONS**

#### **Elimination of Roadless Area from Hualapai Reservation**

On page 7181 of the FEDERAL REGISTER of September 17, 1958, there was published a notice of intention to amend Part 163, Roadless and Wild Areas on Indian Reservations, Title 25 of the Code of Federal Regulations. The purpose of the amendment is to eliminate the roadless area from a part of the Hualapai Reservation at the request of the Hualapai Tribal Council.

Interested persons were given an opportunity to submit their views, data and arguments concerning the proposed amendment within 30 days from the date of publication of the notice. More than 30 days have elapsed since this publication and no objections to the proposed

amendment have been raised with this Department.

The proposed amendment to the regulations is hereby adopted as set forth below. This amendment is effective upon publication in the FEDERAL REGISTER.

FRED A. SEATON,  
*Secretary of the Interior.*

JANUARY 3, 1959.

Section 163.1 of Part 163 is amended to read as follows:

#### **§ 163.1 Roadless areas.**

A roadless area for the purpose of this part is one which contains no provision for the passage of motorized transportation and which is at least 100,000 acres in forested country or at least 500,000 acres in nonforested country. The following are established as roadless areas on Indian reservations:

Name of area	Reservation	Approximate acreage
Rainbow Bridge.....	Navajo.....	1,590,000
Black Mesa.....	Navajo.....	820,000
Painted Desert.....	Navajo.....	525,000
Black River.....	San Carlos-Ft. Apache.....	325,000
Wind River Mountains.....	Shoshone.....	220,000
Columbia-San Poil Divide.....	Colville.....	155,000
Mt. Thomas.....	Ft. Apache.....	130,000
Mission Range.....	Flathead.....	125,000
Mesa Verde.....	Consolidated Ute.....	115,000
Goat Rocks.....	Yakima.....	105,000

The boundaries of these areas are described in the appendix to this part.<sup>1</sup>

[F. R. Doc. 59-232; Filed, Jan. 9, 1959;  
8:45 a. m.]

## **Title 26—INTERNAL REVENUE, 1954**

### **Chapter I—Internal Revenue Service, Department of the Treasury**

#### **SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES [T. D. 6351]**

### **PART 43—DOCUMENTARY STAMP TAXES**

On September 13, 1958, notice of proposed rule making with respect to regulations under chapter 34 of the Internal Revenue Code of 1954 (relating to documentary stamp taxes) and with respect to regulations under various administrative provisions of the Internal Revenue Code of 1954 having application to the documentary stamp taxes was published in the FEDERAL REGISTER (23 F. R. 7107). After consideration of all such relevant material as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted, subject to the changes set forth below, and supersede paragraph 25 of Treasury Decision 6118 (19 F. R. 9896), approved December 30, 1954, as added by Treasury Decision 6208

<sup>1</sup> The appendix to this part is not codified. It appears, however, at 3 F. R. 709-711, Mar. 22, 1938.

(21 F. R. 8082), approved October 16, 1956:

PARAGRAPH 1. Section 4301 as set forth in § 43.4301 is revised by striking out all of paragraph (2) (B) and inserting in lieu thereof a new paragraph (2) (B).

PAR. 2. Paragraph (b) of § 43.4301-2 is revised by striking out all of subparagraph (4) and inserting in lieu thereof a new subparagraph (4).

PAR. 3. Paragraph (a) of § 43.4311-2 is revised by striking out all of subparagraph (4) and inserting in lieu thereof a new subparagraph (4).

PAR. 4. Paragraph (a) (4) (i) of § 43.4361-1 is revised by striking out all (a) and inserting in lieu thereof a new (a).

PAR. 5. Paragraph (a) of § 43.4381-1 is revised by striking out all of the fifth sentence and inserting in lieu thereof the following: "For example, an instrument containing the essential features of a promissory note is included within the meaning of the term 'certificates of indebtedness' if it has, in addition, the general characteristics of a corporate security."

[SEAL] O. GORDON DELK,  
*Acting Commissioner of Internal Revenue.*

Approved: January 6, 1959.

FRED C. SCRIBNER, Jr.,  
*Acting Secretary of the Treasury.*

The regulations as so adopted relating to documentary stamp taxes under Chapter 34 of the Internal Revenue Code of 1954 and under those administrative provisions of Subtitle F of such Code which have special application to the taxes imposed by such Chapter 34 are as follows:

#### **Subpart A—Introductory Provisions**

- Sec.  
43.0-1 Introduction.  
43.0-2 General definitions and use of terms.  
43.0-3 Scope of regulations.  
43.0-4 Extent to which the regulations in this part supersede prior regulations.

#### **Subpart B—Tax on Issuance of Capital Stock and Similar Interests**

- 43.4301 Statutory provisions; imposition of tax.  
43.4301-1 Imposition of the tax on original issue of stock.  
43.4301-2 Illustrations.  
43.4302 Statutory provisions; stock issued in recapitalization.  
43.4302-1 Limitation on tax in case of recapitalization.  
43.4303 Statutory provisions; exemptions.  
43.4303-1 Common trust funds.  
43.4304 Statutory provisions; affixing of stamps.  
43.4304-1 Affixing of stamps.  
43.4305 Statutory provisions; cross references.  
43.4305-1 Cross references.

#### **Subpart C—Tax on Issuance of Certificates of Indebtedness**

- 43.4311 Statutory provisions; imposition of the tax.  
43.4311-1 Imposition of tax on issuance of certificates of indebtedness.  
43.4311-2 Illustrations.  
43.4312 Statutory provisions; definition of corporation.  
43.4313 Statutory provisions; renewal of certificates of indebtedness.

- Sec.  
43.4313-1 Tax on renewal of certificates of indebtedness.  
43.4314 Statutory provisions; bond as security for debt.  
43.4314-1 Bond as security for debt.  
43.4315 Statutory provisions; exemption for certain installment obligations.  
43.4316 Statutory provisions; cross references.  
43.4316-1 Cross references.

**Subpart D—Tax on Sales or Transfers of Capital Stock and Similar Interests**

- 43.4321 Statutory provisions; imposition of tax.  
43.4321-1 Imposition of tax.  
43.4321-2 Illustrations.  
43.4321-3 Tax on warrants.  
43.4321-4 Requirement of memoranda of agreements to sell, etc.  
43.4321-5 Record of sales and transfers of stock.  
43.4321-6 Registration of brokers, exchanges, nominees, etc.  
43.4321-7 Rules applicable to clearing houses.  
43.4322 Statutory provisions; exemptions.  
43.4322-1 Exemptions.  
43.4323 Statutory provisions; affixing of stamps.  
43.4323-1 Affixing of stamps.  
43.4324 Statutory provisions; cross references.  
43.4324-1 Cross references.

**Subpart E—Tax on Sales or Transfers of Certificates of Indebtedness**

- 43.4331 Statutory provisions; imposition of tax.  
43.4331-1 Imposition of tax.  
43.4331-2 Illustrations.  
43.4331-3 Tax on warrants.  
43.4331-4 Requirement of memoranda of agreements to sell, etc.  
43.4331-5 Records of sales and transfers of certificates of indebtedness.  
43.4331-6 Registration of brokers, exchanges, and nominees.  
43.4331-7 Rules applicable to clearing houses.  
43.4332 Statutory provisions; exemptions.  
43.4332-1 Exemptions.  
43.4333 Statutory provisions; cross references.  
43.4333-1 Cross references.

**Subpart F—Provisions Common to Sales or Transfers of Capital Stock and Certificates of Indebtedness**

**EXEMPTIONS**

- 43.4341 Statutory provisions; transfers as security.  
43.4341-1 Transfers as security.  
43.4342 Statutory provisions; fiduciaries and custodians.  
43.4342-1 Transfers to or by fiduciaries or custodians.  
43.4343 Statutory provisions; transfers by operation of law.  
43.4343-1 Transfers by operation of law.  
43.4344 Statutory provisions; exemption certificates.  
43.4344-1 Exemption certificates.  
43.4345 Statutory provisions; cross references.

**MISCELLANEOUS PROVISIONS**

- 43.4351 Statutory provisions; definitions.  
43.4351-1 Definitions.  
43.4352 Statutory provisions; stock or certificates of indebtedness owned by a partnership.  
43.4352-1 Transfer of an interest in a partnership.  
43.4353 Statutory provisions; affixing of stamps.  
43.4353-1 Affixing of stamps.

- Sec.  
43.4354 Statutory provisions; cross references.  
43.4354-1 Cross references.

**Subpart G—Tax on Conveyances**

- 43.4361 Statutory provisions; imposition of tax.  
43.4361-1 Imposition of tax.  
43.4361-2 Illustrations.  
43.4361-3 Affixing of stamps.  
43.4362 Statutory provisions; exemptions.  
43.4362-1 Exemptions.  
43.4363 Statutory provisions; cross references.  
43.4363-1 Cross references.

**Subpart H—Tax on Policies Issued by Foreign Insurers**

- 43.4371 Statutory provisions; imposition of tax.  
43.4371-1 Imposition of tax on policies issued by foreign insurers; scope of tax.  
43.4371-2 Rate and computation of tax.  
43.4372 Statutory provisions; definitions.  
43.4373 Statutory provisions; exemptions.  
43.4374 Statutory provisions; affixing of stamps.  
43.4374-1 Affixing of stamps.  
43.4375 Statutory provisions; cross references.  
43.4375-1 Cross references.

**Subpart I—Miscellaneous Provisions Applicable to Documentary Stamp Taxes**

- 43.4381 Statutory provisions; definitions.  
43.4381-1 Definitions.  
43.4381-2 Other definitions.  
43.4382 Statutory provisions; exemptions.  
43.4382-1 Exemptions.  
43.4383 Statutory provisions; liability for tax.  
43.4383-1 Liability for tax.

**Subpart J—Administrative Provisions Applicable to Documentary Stamp Taxes**

- 43.6001 Statutory provisions; notice or regulations requiring records, statements, and special returns.  
43.6001-1 Records of sales and transfers of stock.  
43.6001-2 Rules applicable to clearing houses.  
43.6001-3 Records with respect to foreign insurance policies.  
43.6001-4 Registration of brokers, exchanges, nominees, etc.  
43.6001-5 General requirements with respect to records and returns.  
43.6802 Statutory provisions; supply and distribution.  
43.6802-1 Where stamps may be purchased and where requisition forms for the purchase of such stamps may be obtained and filed.  
43.6804 Statutory provisions; attachment and cancellation.  
43.6804-1 Stamps to be used and denominations thereof.  
43.6804-2 Cancellation of stamps.  
43.6805 Statutory provisions; redemption of stamps.  
43.7208 Statutory provisions; offenses relating to stamps.  
43.7209 Statutory provisions; unauthorized use or sale of stamps.  
43.7209-1 Use or resale of unused stamps.  
43.7270 Statutory provisions; insurance policies.  
43.7271 Statutory provisions; penalties for offenses relating to stamps.  
43.7271-1 Cross references.  
43.7701 Statutory provisions; definitions.  
43.7805 Statutory provisions; rules and regulations.  
43.7805-1 Promulgation of regulations.

**AUTHORITY:** §§ 43.0-1 to 43.7805-1 issued under sec. 7805 I. R. C. 1954; 68A Stat. 917; 26 U. S. C. 7805.

**Subpart A—Introductory Provisions**

**§ 43.0-1 Introduction.**

(a) *In general.* The regulations in this part relate to documentary stamp taxes imposed by Chapter 34 of the Internal Revenue Code of 1954. These regulations constitute Part 43, of Title 26, of the Code of Federal Regulations. References in the regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, unless otherwise indicated.

(b) *Division of regulations.* The regulations in this part are divided into 10 subparts: Subpart A contains provisions relating to general definitions and use of terms, the division and scope of the regulations in this part, and the extent to which the regulations in this part supersede prior regulations relating to documentary stamp taxes. Subpart B relates to the tax on issuance of capital stock and similar interests. Subpart C relates to the tax on issuance of certificates of indebtedness. Subpart D relates to the tax on sales or transfers of capital stock and similar interests. Subpart E relates to the tax on sales or transfers of certificates of indebtedness. Subpart F relates to provisions common to sales or transfers of capital stock and certificates of indebtedness. Subpart G relates to the tax on conveyances. Subpart H relates to the tax on policies issued by foreign insurers. Subpart I relates to miscellaneous provisions applicable to documentary stamp taxes. Subpart J relates to selected provisions of subtitle F of the Code, relating to procedure and administration, which have special application to documentary stamp taxes.

(c) *Arrangement and numbering.* Each section of the regulations is preceded by the section of the Internal Revenue Code which it interprets. Sections of the Code or references thereto are preceded by "Sec." or the word "section". Each section of the regulations is preceded by a section symbol and 43 followed by a decimal point (§ 43.).

**§ 43.0-2 General definitions and use of terms.**

(a) *In general.* As used in the regulations in this part, unless otherwise expressly indicated—

(1) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(2) The Internal Revenue Code of 1954 means the Act approved August 16, 1954 (68A Stat.), entitled "An act to revise the internal revenue laws of the United States", as amended.

(3) Regulations 71 means the regulations approved November 25, 1941 (26 CFR 1941 Supp. Part 113), as amended, relating to stamp taxes on issues and transfers of stocks and bonds, conveyances of realty, passage tickets, and foreign insurance policies.

(4) The term "district director" means district director of Internal Revenue.

(5) The terms "stamp tax" and "stamp taxes" generally mean any one or all of the stamp taxes which constitute



the subject of the regulations in this part.

(6) The term "documentary stamps" means all stamps issued for use in payment of the stamp taxes imposed by chapter 34 of the Internal Revenue Code.

(7) The cross references in the regulations in this part to other portions of the regulations, when the word "see" is used, are made only for convenience and shall be given no legal effect.

(b) *Cross reference.* For other definitions, see section 4381, §§ 43.4381-1 and 43.4381-2, and section 7701 (§ 43.7701).

#### § 43.0-3 Scope of regulations.

The regulations in this part have application to all transactions occurring after December 31, 1954.

#### § 43.0-4 Extent to which the regulations in this part supersede prior regulations.

The regulations in this part, with respect to the subject matter within the scope thereof, supersede Regulations 71.

### Subpart B—Tax on Issuance of Capital Stock and Similar Interests

#### § 43.4301 Statutory provisions; imposition of tax.

SEC. 4301. *Imposition of tax.* There shall be imposed a tax on each original issue of shares or certificates of stock, issued by a corporation, whether on organization or reorganization, at the following rates:

(1) *Par value stock.* Eleven cents on each \$100 or fraction thereof of the par or face value of each certificate (or of the shares where no certificate is issued).

(2) *No-par-value stock—(A) Actual value of \$100 or more per share.* Eleven cents on each \$100 or fraction thereof of the actual value of each certificate (or of the shares where no certificate is issued).

(B) *Actual value of less than \$100 per share.* Three cents on each \$20 or fraction thereof of the actual value of each certificate (or of the shares where no certificate is issued).

#### § 43.4301-1 Imposition of the tax on original issue of stock.

(a) *Scope of tax.* Section 4301 imposes a tax on each original issue of shares or certificates of stock issued by a domestic corporation. See section 4381 (b) and § 43.4381-1 (b) and section 4381 (c) and § 43.4381-1 (c), respectively, for definitions of the terms "corporation" and "shares or certificates of stock". Stock is deemed to be issued when it is subscribed for and the subscription is accepted. The tax applies to each original issue of the shares or certificates, whether upon organization, reorganization, or otherwise, regardless of the purpose of the issue, the person to whom issued, or the time of delivery. The tax also applies to shares or certificates issued in a recapitalization where the recapitalization results in the dedication of an amount as capital for the first time (see § 43.4302-1).

(b) *Rate and computation of tax—(1) Rate of tax.* The rates of tax are as follows:

(i) *Par value stock—11 cents on each \$100 or fraction thereof of the face value of each certificate; and*

(ii) *No par value stock—11 cents on each \$100 or fraction thereof of the*

actual value of each certificate, where the actual value of each share is \$100 or more; and 3 cents on each \$20 or fraction thereof of the actual value of each certificate, where the actual value of each share is less than \$100.

(2) *Separate computation.* A separate computation of tax must be made with respect to each certificate regardless of the number of certificates which may be issued in a single transaction.

(3) *Par value stock.* Where stock has a par value, the tax is measured by the total face value of the certificate and not by the amount paid for the stock. For example, the tax upon the issuance of a certificate for any number from 1 to 100 shares of stock having a par value of \$1 a share is 11 cents, since in such case the total face value of the certificate does not exceed \$100. The tax on the issuance of a certificate for any number from 11 to 20 shares of stock having a par value of \$10 a share, or for any number from 5 to 8 shares of stock having a par value of \$25 a share, is 22 cents, since in these cases the total face value of the certificate is more than \$100 but does not exceed \$200.

(4) *No par value stock.* (i) Where stock has no par value, the rate of tax is determined by the actual value of each share, and the amount of tax, computed at such rate, is measured by the actual value of the certificate. Thus, in all cases where the actual value of each share is \$100 or more, the tax must be computed at the rate of 11 cents on each \$100 or fraction thereof of the actual value of the certificate; and in all cases where the actual value of each share is less than \$100, the tax must be computed at the rate of 3 cents on each \$20 or fraction thereof of the actual value of the certificate. For example, upon the issuance of a certificate for 10 shares having an actual value of \$101 a share, or a total actual value of \$1,010, the tax, computed at the rate of 11 cents on each \$100 or fraction thereof of the actual value of the certificate, amounts to \$1.21. Upon the issuance of a certificate for 10 shares having an actual value of \$99 a share, or a total actual value of \$990, the tax, computed at the rate of 3 cents on each \$20 or fraction thereof of the actual value of the certificate, amounts to \$1.50.

(ii) The actual value of stock not having a par value shall be determined on the basis of the market value of the stock at the time of issuance. In the absence of a market value of the stock, the actual value shall be determined on the basis of all the facts and circumstances of the case.

(iii) Stock which has been given a "fixed" or "stated" price, as distinguished from stock having a par value, is taxable as stock without par value.

(5) *Shares not represented by certificates.* Where the shares are not represented by certificates, the subscription is the basis of tax computation. In the case of shares having a par value, a separate computation of tax must be made with respect to the aggregate par value of the shares covered by each subscription. In the case of shares not having a par value, a separate computation of tax must likewise be made with respect to the

aggregate actual value of the shares covered by each subscription at the rate determined by the actual value of each share.

#### § 43.4301-2 Illustrations.

(a) *Issues subject to tax.* The following are examples of issues subject to the tax:

(1) Certificates or shares representing beneficial interests in any organization which is a corporation within the meaning of section 4381 (b) or section 7701 (a) (3).

(2) Stock issued for property, real or personal, or for the purpose of purchasing a business.

(3) Stock issued by joint-stock land banks.

(4) Stock issued as a dividend.

(5) Temporary or interim certificates.

(6) The issue of a fractional share, or a certificate for a fractional share, of stock (see, however, paragraph (b) (6) of this section).

(7) Stock issued upon exercise of a warrant or rights entitling the holder to subscribe for unissued stock (see § 43.4321-3 (a)).

(8) Stock issued in connection with a consolidation by a consolidated corporation in exchange for stock of the consolidating corporations whether issued directly to the consolidating corporations or to the stockholders of the consolidating corporations (see also § 43.4321-2 (a) (9) relating to the imposition of the stock transfer tax where the stock is issued directly to the stockholders).

(9) Stock issued in connection with a merger by the continuing corporation whether issued directly to the merging corporation or to the stockholders of the merging corporation (see also § 43.4321-2 (a) (9)) and stock issued to the stockholders of the continuing corporation in a recapitalization under section 4302 which results in the dedication of an amount as capital which amount is so dedicated for the first time.

(10) Stock issued outside the United States by a domestic corporation.

(11) A business property investment certificate, wherein it is certified that the holder thereof is the owner of an interest in certain specified property, legal title to which has been previously conveyed to a trustee, and whereby the issuing corporation agrees to manage the property and distribute the proceeds.

(b) *Issues not subject to tax.* In addition to the various issues specifically exempt under sections 4303 (a) and 4382, the following are examples of issues not subject to the tax:

(1) The issue of warrants or rights to subscribe for unissued stock (see, however, § 43.4321-3).

(2) The issue of certificates of stock in exchange for outstanding certificates representing the same stock as, for instance, to reflect a change in the name of the issuing corporation or to secure several certificates for one certificate, or vice versa.

(3) The issue of voting-trust certificates.

(4) The issue of definitive certificates of stock in exchange for temporary or

interim certificates upon the issuance of which the tax has been paid.

(5) The issue of stock in a recapitalization or reorganization where there is no dedication of additional capital, either by transfer of earned surplus or otherwise (see, however, § 43.4302-1 (b)).

(6) Stock issued on the surrender of fractional shares or certificates for fractional shares of stock (see, however, paragraph (a) (6) of this section).

(7) The issue in the United States of stock of a foreign corporation.

(8) The issue of stock to effect a mere split in outstanding shares without any increase in the issuing corporation's capital stock account.

#### § 43.4302 Statutory provisions; stock issued in recapitalization.

SEC. 4302. *Recapitalization.* In the case of a recapitalization, the tax imposed by section 4301 shall be that proportion of the tax computed on the certificates (or on the shares where no certificates are issued) issued in the recapitalization that (1) the amount dedicated as capital for the first time by the recapitalization, whether by a transfer of earned surplus or otherwise, bears to (2) the total par value (or actual value if no par stock) of such certificates or shares issued in the recapitalization.

#### § 43.4302-1 Limitation on tax in case of recapitalization.

(a) Where stock is issued in a recapitalization, the tax payable is that proportion of the total tax imposed by section 4301 computed with respect to all the shares or certificates issued in the recapitalization that the amount dedicated as capital for the first time by the recapitalization, whether by a transfer of earned surplus or otherwise, bears to the total par value (or actual value if no par stock) of the shares or certificates so issued.

(b) A tax is not payable with respect to stock issued in a recapitalization unless the recapitalization results in the dedication of an amount as capital which amount is so dedicated for the first time. Thus, where a corporation transferred an amount from capital to capital surplus in a prior recapitalization, and such corporation in a subsequent or second recapitalization transfers such amount from capital surplus to capital under such circumstances that the amount so restored to capital is clearly identifiable, a tax is not payable with respect to the amount so rededicated as capital. However, the tax is payable with respect to a transfer of capital surplus to capital by way of a recapitalization where the amount so transferred had not been previously dedicated as capital.

(c) Where a recapitalization is effected in connection with, or as part of, some other transaction, for example, an original or an additional issue of stock, a merger, etc., the limitation of the tax payable to the proportion specified in this section applies only to the stock issued in that part of the transaction which constitutes a recapitalization. Thus, where a corporation makes a change in its capital structure by replacing an issue of stock with another issue of stock and at the same time disposes of part of the new stock by sale to under-

writers, the tax limitation is applicable only to that portion of the new stock which is issued in exchange for the old stock retired thereby. In such case, the portion of the new stock sold to the underwriters is taxable in its entirety without any adjustment on account of the recapitalization. Similarly, where a corporation retires its preferred stock by issuing common stock in exchange therefor, and such exchange is made in connection with a merger in which the corporation issues common stock also to the former stockholders of the merged company, the tax limitation is applicable only to the common stock issued in exchange for the preferred stock, and the shares or certificates of common stock issued to the former stockholders of the merged company are subject to tax without any adjustment on account of the recapitalization.

#### § 43.4303 Statutory provisions; exemptions.

SEC. 4303. *Exemptions.*—(a) *Common trust funds.* The tax imposed by section 4301 shall not apply to the issue of shares or certificates of a common trust fund, as defined in section 584.

(b) *Other exemptions.* For other exemptions, see section 4382.

#### § 43.4303-1 Common trust funds.

For regulations under section 584, see the Income Tax Regulations (Part 1 of this chapter).

#### § 43.4304 Statutory provisions; affixing of stamps.

SEC. 4304. *Affixing of stamps.* The stamps representing the tax imposed by section 4301 shall be affixed to the stock books or corresponding records of the organization and not to the certificates issued.

#### § 43.4304-1 Affixing of stamps.

(a) *Documentary stamps.* Only documentary stamps shall be used in payment of the tax imposed by section 4301. The requisite stamps shall be affixed to the stock books or corresponding records of the corporation, and not to the certificates issued. See §§ 43.6804-1 and 43.6804-2, contained in Subpart J of this part, for appropriate use, denominations, and cancellation of such stamps.

(b) *Purchase of documentary stamps.* Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, only from the sources and in the manner provided in § 43.6802-1, contained in Subpart J of this part. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801, 6802 (§ 43.6802), and 6805 (§ 43.6805), and the regulations thereunder contained in the Regulations on Procedure and Administration (Part 301 of this chapter).

#### § 43.4305 Statutory provisions; cross references.

SEC. 4305. *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4381 and 4383 and Subtitle F.

#### § 43.4305-1 Cross references.

(a) For definitions, see section 4381, §§ 43.4381-1 and 43.4381-2, and section 7701 (§ 43.7701).

(b) For penalties, see section 7271 and § 43.7271-1.

(c) For other general and administrative provisions, see section 4383, § 43.4383-1, Subpart J of this part, and the applicable sections of the Regulations on Procedure and Administration (Part 301 of this chapter).

### Subpart C—Tax on Issuance of Certificates of Indebtedness

#### § 43.4311 Statutory provisions; imposition of the tax.

SEC. 4311. *Imposition of tax.* There shall be imposed a tax on all certificates of indebtedness issued by a corporation at the rate of 11 cents on each \$100 of face value or fraction thereof.

#### § 43.4311-1 Imposition of tax on issuance of certificates of indebtedness.

(a) *Scope of tax.* Section 4311 imposes a tax on the issue within the territorial jurisdiction of the United States by any corporation of certificates of indebtedness as defined in section 4381 (a) and § 43.4381-1. See section 4312 and § 43.4381-1 (b) for definitions of the term "corporation". Every renewal of a certificate of indebtedness is subject to tax as a new issue (see § 43.4313-1). A certificate of indebtedness is issued within the meaning of the law at the time it is delivered so as to constitute an obligation of the issuer.

(b) *Rate and computation of tax.* The rate of tax is 11 cents on each \$100 or fraction thereof of the face value of each certificate of indebtedness; except that, where a certificate conditioned for the repayment or payment of money is given in a penal sum, greater than the debt secured, the tax is based upon the amount secured (see section 4314). A separate computation of tax must be made with respect to each certificate of indebtedness regardless of the number of certificates which may be issued in a single transaction. For example, the tax on the issuance of a certificate having a face value of \$1,000 is \$1.10. The tax on the issuance of 2 certificates having a face value of \$50 each is 22 cents, that is, 11 cents on each certificate, whether the certificates are issued to the same person or to different persons.

(c) *Affixing of stamps.* (1) The requisite documentary stamps shall be affixed either to the certificates of indebtedness or to the indenture or agreement under which they are issued. If the stamps are affixed to the indenture or agreement, the certificate must bear a legend showing that the proper documentary stamps have been affixed to the indenture or agreement and duly cancelled. If the indenture provides for the issue of certificates over a period of years, the requisite stamps may be affixed at the time of each issue. Only documentary stamps shall be used in payment of the tax imposed by section 4311. See §§ 43.6804-1 and 43.6804-2, contained in Subpart J of this part, for the appropriate use, denominations, and cancellation of such stamps.

(2) Documentary stamps may be purchased, and requisitions for the purchase of such stamps may be obtained, only from the sources and in the manner provided in § 43.6802-1, contained

in Subpart J of this part. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801, 6802 (§ 43.6802), and 6805 (§ 43.6805), and the regulations thereunder contained in the Regulations on Procedure and Administration (Part 301 of this chapter).

#### § 43.4311-2 Illustrations.

(a) *Issues subject to tax.* The following are examples of corporate instruments taxable upon issue:

(1) A bond secured by a real estate mortgage.

(2) A bond delivered to a bank or trust company as security for the payment of an obligation.

(3) Bonds executed outside the United States by a foreign corporation and delivered in the United States.

(4) Interim certificates or temporary bonds issued in lieu of definitive bonds. However, no additional tax is due on the issuance of the corresponding permanent or definitive bonds, but each of such permanent or definitive bonds must bear notation of the fact that requisite stamps were duly attached to the interim certificates or temporary bonds or to the indenture or agreement under which such interim certificates or temporary bonds were issued.

(5) Equipment trust certificates.

(6) Any certificate of indebtedness issued by any receiver, trustee in bankruptcy, assignee, or other person, having custody of property, or charge of the affairs, of any corporation (see section 4312).

(b) *Issues not subject to tax.* In addition to the various issues specifically exempt under sections 4315 (a) and 4382, the following are examples of instruments not taxable upon issue:

(1) An instrument issued by an individual.

(2) An instrument merely representing the assignment of an interest in a bond (see, however, § 43.4331-1 and § 43.4351-1 (b)).

(3) Bonds issued in exchange for outstanding bonds of different denominations but of the same kind, the same total face amount, and the same maturity date.

(4) Permanent or definitive bonds issued in exchange for interim certificates or temporary bonds representing the same obligation (see, however, paragraph (a) (4) of this section).

(5) A certificate of deposit issued by a bank, whether or not negotiable, and whether payable on demand or at some specified time; and a certificate of deposit issued by an organization operating under the Morris Plan.

(6) Indemnity, fidelity, and surety bonds.

(7) A business property investment certificate, wherein it is certified that the holder thereof is the owner of an interest in certain specified property, legal title to which has been previously conveyed to a trustee, and whereby the issuing corporation agrees to manage the property and distribute the proceeds. However, such instrument is subject to the tax imposed by section 4301 (see § 43.4301-2 (a) (11)).

(8) A bond issued by a trust company on behalf of the estate of a decedent for

which it is acting as executor or administrator, provided the certificate is issued solely on the credit of the estate.

(9) A warrant granting the right to purchase unissued bonds (see § 43.4331-3).

#### § 43.4312 Statutory provisions; definition of corporation.

SEC. 4312. *Definitions.*—(a) *Corporation.* For the purpose of section 4311 the term "corporation" includes any receiver, trustee in bankruptcy, assignee, or other person, having custody of property, or charge of the affairs, of the corporation.

(b) *Cross references.* For other definitions, see section 4381 and subtitle F.

#### § 43.4313 Statutory provisions; renewal of certificates of indebtedness.

SEC. 4313. *Renewals.* Every renewal of any certificate of indebtedness shall be taxed as a new issue.

#### § 43.4313-1 Tax on renewal of certificates of indebtedness.

Every renewal of a certificate of indebtedness is subject to the tax imposed by section 4311 as a new issue. Whenever there is such a material change in the obligation as to constitute a new obligation, as, for example, an extension of maturity date or a change in the interest rate of the outstanding certificate of indebtedness, such change constitutes a renewal subject to tax as a new issue. The time when the original certificate was issued is immaterial. Likewise, the time when the certificate is renewed, whether before or after the original date of maturity, is immaterial. A tax liability is not dependent upon use of any particular form of instrument to effect the renewal. The renewal may, for example, be evidenced by a notation on the original certificate, by a collateral agreement, or by an extension agreement.

#### § 43.4314 Statutory provisions; bond as security for debt.

SEC. 4314. *Bond as security for debt.* In the case where a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax imposed by section 4311 shall be based upon the amount secured.

#### § 43.4314-1 Bond as security for debt.

For the effect of section 4314 on the computation of the tax, see § 43.4311-1 (b).

#### § 43.4315 Statutory provisions; exemption for certain installment obligations.

SEC. 4315. *Exemptions.*—(a) *Installment purchase of obligations.* The tax imposed by section 4311 shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 percent of the cash amount to which entitled upon maturity of the instrument.

(b) *Other exemptions.* For other exemptions, see section 4382.

#### § 43.4316 Statutory provisions; cross references.

SEC. 4316. *Cross references.* For penalties and other general and administrative provisions applicable to this part, see section 4383 and Subtitle F.

#### § 43.4316-1 Cross references.

(a) For definitions, see section 4381, §§ 43.4381-1 and 43.4381-2, and section 7701 (§ 43.7701).

(b) For penalties, see section 7271 and § 43.7271-1.

(c) For other general and administrative provisions, see section 4383, § 43.4383-1, Subpart J of this part, and the applicable sections of the Regulations on Procedure and Administration (Part 301 of this chapter).

### Subpart D—Tax on Sales or Transfers of Capital Stock and Similar Interests

#### § 43.4321 Statutory provisions; imposition of tax.

SEC. 4321. *Imposition of tax.* There shall be imposed a tax on each sale or transfer of shares or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, issued by a corporation, at the following rates:

(1) *Par-value stock.* Five cents on each \$100 or fraction thereof of the par or face value of each certificate (or of the shares where no certificate is sold or transferred), except as provided in paragraph (3).

(2) *No-par-value stock.* Five cents on each share, except as provided in paragraph (3).

(3) *Exception.* In the case of a sale at \$20 or more per share, the rate provided in paragraphs (1) and (2) shall be 6 cents in lieu of 5 cents.

#### § 43.4321-1 Imposition of tax.

(a) *Scope of tax.* Section 4321 imposes a tax on each sale or transfer (as defined in section 4351 (b)) within the territorial jurisdiction of the United States of shares, or certificates of stock, or of rights to subscribe for or to receive such shares or certificates, issued by a corporation. As to sales or transfers of warrants to subscribe for or to purchase stock, see § 43.4321-3. The tax applies to the specified dealings or transactions in stock, whether occurring before, after, or without the issuance of a certificate. The tax attaches at the time of making the sale or transfer, regardless of the time or manner of delivery of the certificate, agreement, or memorandum of sale. For requirements as to the making and keeping of records of such sales or transfers, see §§ 43.4321-4 and 43.6001-1. See section 4381 (b) and § 43.4381-1 (b) and section 4381 (c) and § 43.4381-1 (c), respectively, for definitions of the terms "corporation" and "shares or certificates of stock". For purposes of the tax imposed by section 4321, the term "stock", as used in the regulations in this part, includes shares or certificates of stock and rights to subscribe for or to receive such shares or certificates.

(b) *Rates and computation of tax.*

(1) *Stock having a par value.* (i) Where, by sale or transfer, par value stock of the same class issued by one corporation is transferred from a single transferor to a single transferee, the tax is computed on the basis of the aggregate par value of all the shares transferred. The selling price of the stock is material only where the change of ownership is by sale, and then only in determining the rate of tax. Where there are two or more transferors or two or more transferees, or where in a single transaction transfer is made of the stock of two or more corporations or of two or more classes issued by a single corporation, a separate tax computation must be made with respect to each transferor and each transferee and

with respect to the stock of each corporation and the stock of each class issued by a single corporation. The foregoing rule may be illustrated by the following examples:

**Example (1).** A, owning 25 shares of common stock and 25 shares of preferred stock of the X Corporation, and 50 shares of the common stock of the Y Corporation, transfers all the stock by delivering the certificates to B. In this situation, there are three distinct transactions, namely, a transfer of 25 shares of common stock of the X Corporation, a transfer of 25 shares of preferred stock of the X Corporation, and a transfer of 50 shares of common stock of the Y Corporation, and the tax is computed, in the case of each transfer, upon the aggregate par value of the stock.

**Example (2).** A, owning 100 shares of stock in the X Corporation represented by one or more certificates, sells 50 shares each to B and C. To that end, A sends his certificate or certificates to the transfer agent with instructions to issue one or more certificates aggregating 50 shares to each purchaser. In this situation, there are two distinct transactions, namely, two sales of 50 shares of stock each, and the tax is computed upon the aggregate par value of the stock transferred to each purchaser.

**Example (3).** A and B, each owning 50 shares of stock in the X Corporation represented in each case by one or more certificates, make a gift of their stock to C. To that end, they send their certificates to the transfer agent with instructions to issue to the donee one or more certificates for the entire 100 shares. In this situation, there are likewise two distinct transactions, namely, two gifts of 50 shares of stock each, and a separate computation must be made with respect to each gift.

(ii) The rate of tax applicable to each sale or transfer of par value stock is as follows:

(a) Six cents on each \$100 or fraction thereof of the aggregate face value of the certificates or the aggregate par value of the shares with respect to sales, agreements to sell, and memoranda of sale, where the selling price is \$20 or more a share.

(b) Five cents on each \$100 or fraction thereof of the aggregate face value of the certificates or the aggregate par value of the shares with respect to sales, agreements to sell, and memoranda of sale, where the selling price is less than \$20 a share.

(c) Five cents on each \$100 or fraction thereof of the aggregate face value of the certificates or the aggregate par value of the shares in all other taxable transactions.

(iii) The computation of the tax may be illustrated by the following examples:

**Example (1).** A sells to B 100 shares of stock of the X Corporation having a par value of \$100 a share for \$50 per share. The amount of tax payable is computed at the rate of 6 cents on each \$100 of the face value of the certificate or certificates (\$10,000) and is \$6.

**Example (2).** The facts are the same as set forth in example (1), except that the stock is sold for \$10 per share. The amount of tax payable is computed at the rate of 5 cents on each \$100 of the face value of the certificate or certificates (\$10,000) and is \$5.

**Example (3).** A gives B 100 shares of stock of the X Corporation having a par value of \$100 a share at a time when its actual value is \$50 a share and later gives 100 shares of the same stock to C at a time when its actual value is \$10 a share. In each instance the

amount of tax is computed at the rate of 5 cents on each \$100 of the face value of the certificate or certificates (\$10,000) and is \$5 for each gift.

(2) *Stock without par value.* (i) Where, by sale or transfer, stock without par value is transferred, the tax is computed strictly on the basis of the number of shares involved in each transfer. The selling price of the stock is material only where the change of ownership is by sale, and then only in determining the rate of tax. Stock which has been given a "fixed" or "stated" price, as distinguished from stock having a par value, is taxable as stock without par value.

(ii) The rate of tax applicable to each sale or transfer of stock without par value is as follows:

(a) Six cents per share with respect to sales, agreements to sell, and memoranda of sales, where the selling price is \$20 or more a share.

(b) Five cents per share with respect to sales, agreements to sell, and memoranda of sales, where the selling price is less than \$20 a share.

(c) Five cents per share in all other taxable transactions.

(iii) The computation of the tax may be illustrated by the following examples:

**Example (1).** A sells to B 100 shares of stock without par value of the Z Corporation for \$25 per share. The amount of tax payable is computed at the rate of 6 cents per share on 100 shares and is \$6.

**Example (2).** A sells to B 100 shares of stock without par value of the Z Corporation for \$10 per share. The amount of tax payable is computed at the rate of 5 cents per share on 100 shares and is \$5.

**Example (3).** A gives B 100 shares of stock without par value of the Z Corporation at a time when its actual value is \$25 per share and later gives C 100 shares of the same stock at a time when its actual value is \$10 per share. In each instance the amount of tax is computed at the rate of 5 cents per share on 100 shares and is \$5 for each gift.

(3) *Rights to receive, and rights to subscribe for, stock.* In all cases, the tax on the transfer of rights to receive stock and on the transfer of rights to subscribe for stock is determined by the class of stock to which the rights relate. Thus, the tax is 5 cents on each share covered by the rights where the stock has no par value and 5 cents on each \$100 or fraction thereof of the aggregate par value of the shares covered by the rights where the stock has a par value. In computing the tax on transfers of rights to receive or rights to subscribe for stock, the selling price or the subscription price of the stock, as the case may be, is immaterial.

(4) *Cross-reference.* See § 43.4352-1 for computation of the tax imposed on the transfer of an interest in a partnership owning capital stock or similar interests taxable under section 4321.

#### § 43.4321-2 Illustrations.

(a) *Sales and transfers subject to tax.* The following transfers of stock are illustrations of transactions which are taxable, unless exempt from tax under a specific provision of the Internal Revenue Code (see sections 4322, 4341, 4342, 4343, and 4382 with respect to such exemptions);

(1) Transfer by gift.

(2) Transfer by an administrator or executor to a distributee or legatee (see, however, section 4322 (a) (4) and § 43.4322-1 (e)).

(3) Transfer to or by trustees (see, however, section 4343 (a) (8)).

(4) Transfer of an interim certificate, a voting trust certificate, or a certificate of beneficial interest in an association.

(5) Transfer from persons holding legal title as tenants in common, as joint tenants, or as tenants by the entirety, to the same persons separately to effect a partition, or from one person to two or more persons, whether or not including the transferor, as tenants in common, as joint tenants, or as tenants by the entirety (see, however, section 4343 (a) (9)).

(6) Transfer from a partnership to a successor partnership; also from a partnership to the individual members thereof upon dissolution (see, however, § 43.4352-1).

(7) Transfer to a corporation of its own stock (see, however, paragraph (b) (3) of this section).

(8) Transfer upon a merger from the name of a merging corporation of stock owned by it to the name of the continuing corporation. Similarly, upon a consolidation, a transfer from any of the consolidating corporations to the consolidated corporation (see, however, paragraphs (b) (6) and (7) of this section).

(9) In addition to the tax on the issuance of stock in connection with a merger or consolidation, where such stock is issued directly to the stockholders of the merging or consolidating corporations by the continuing or consolidated corporation (see § 43.4301-2 (a) (8) and (a) (9)), there is also a transfer tax imposed at the time of the issuance of such stock. The transfer tax is applicable to such a transaction inasmuch as there is involved the transfer to the stockholders of the merging or consolidating corporations of such corporations' right to receive the stock of the continuing or consolidated corporation.

(10) Transfer of stock to another person upon order of the purchaser; transfer of the right to receive a stock dividend already declared; issuance of stock to a person other than the subscriber; all other transfers of rights to receive stock; and all transfers of rights to subscribe for stock.

(11) Transfer by a broker to a customer of stock issued as a dividend on stock purchased for the customer by the broker and held by the broker in his own name or in the name of his nominee.

(12) Transfer of stock on the books of a domestic corporation, regardless of where the sale is made or the stock certificate is delivered.

(13) Sale or transfer within the territorial jurisdiction of the United States of stock of a foreign corporation.

(14) Transfers by operation of law (see, however, § 43.4343-1).

(b) *Sales and transfers not subject to tax.* In addition to the various exemptions prescribed in section 4382 which apply to documentary stamp taxes generally and to the specific exemptions provided in sections 4322, 4341, 4342, and

4343 and the regulations thereunder, the following are examples of transactions not subject to the tax:

(1) Transfer of stock pursuant to a sale, where the requisite stamps have been affixed to the memorandum of sale.

(2) Surrender of certificates in exchange for other certificates representing the same stock issued to the same person (see also § 43.4301-2 (b) (2)).

(3) Surrender of stock to the issuing corporation for extinguishment (see also paragraph (a) (7) of this section).

(4) Change in the registration of stock for the sole purpose of recording a change in the name of a stockholder, such as from the maiden name to the married name of a stockholder, or a change in the name of a corporation which is a stockholder.

(5) Transfer of stock to or by an insolvent bank, where such transfer is within the provisions of section 7507.

(6) In a consolidation of corporations, the surrender of stock of any of the consolidating corporations in exchange for stock of the consolidated corporation (see, however, paragraph (a) (9) of this section and § 43.4301-2 (a) (8)).

(7) In a merger of corporations, the surrender of stock of both the merging and the continuing corporations in exchange for stock of the continuing corporation (see, however, paragraph (a) (9) of this section and § 43.4301-2 (a) (9)).

(8) Deliveries of stock to or by a clearing house for the sole purpose of clearing or adjusting accounts of its members.

(9) Transfer of stock pursuant to a call, since a "call" is an agreement to sell stock and taxable as such. However, a person making such nontaxable transfer shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of \_\_\_\_\_ shares of the within stock to \_\_\_\_\_ has been made pursuant to a "call", and that the requisite Federal documentary stamps for the transaction are affixed to such "call", which is in the possession of the undersigned.

Signature \_\_\_\_\_

(10) The mere delivery of a certificate of stock by a customer to his broker solely for the purpose of enabling such broker to sell the stock for the customer, where the broker has no legal title or other interest in the stock.

(11) The mere delivery of a certificate of stock by a purchasing broker to his customer, if the tax was paid upon the sale of the stock to such broker and such broker has no legal title or other interest in the stock.

#### § 43.4321-3 Tax on warrants.

(a) *To subscribe for stock.* Transfers of warrants entitling the holder to subscribe for stock are taxable as transfers of rights to subscribe. For computation of the tax on transfers of rights to subscribe for stock, see § 43.4321-1 (b) (3). The issue of a warrant entitling the holder to subscribe for stock is not subject to tax, but the issue of stock upon exercise of the warrant is subject to the tax imposed by section 4301 (see § 43.4301-2 (a) (7)).

(b) *To purchase issued stock.* (1) Warrants entitling the holder to purchase issued stock are taxable upon issuance as agreements to sell stock (see definition of "sale or transfer", section 4351 (b)). The rate of tax applicable to the issue of such warrant is the rate that applies to agreements to sell the kind of stock to which the warrant relates. Thus, when the stock to be purchased under the warrant has a par value and the purchase price is less than \$20 per share, the tax is 5 cents per each \$100 or fraction thereof of the total par value of the stock which the holder is entitled to purchase, and if the purchase price is \$20 or more per share the tax is 6 cents for each \$100 or fraction thereof of the total par value. If the stock has no par value, the tax is 5 cents for each share which the holder is entitled to purchase, unless the purchase price is \$20 or more per share, in which event the tax is 6 cents for each share instead of 5 cents.

(2) Transfers of warrants entitling the holder to purchase issued stock are not subject to the stamp tax since the statute does not impose a tax on sales or transfers of agreements to sell stock. If the transfer tax is paid upon the issuance of a warrant as an agreement to sell stock, no additional transfer tax is incurred upon the subsequent transfer of the stock pursuant to the exercise of the warrant. However, the person making such exempt transfer of stock shall furnish and attach to the certificate a statement in substantially the following form:

It is hereby certified that the transfer of the attached certificate for \_\_\_\_\_

(Number of shares and description of stock) to \_\_\_\_\_ is made pur-

(Name of transferee)  
suant to the exercise of a warrant which is in the possession of the undersigned, and that the requisite stamps due upon the issuance of such warrant have been affixed thereto.

Signature \_\_\_\_\_

#### § 43.4321-4 Requirement of memoranda of agreements to sell, etc.

Every person who makes an agreement to sell stock, or who, by sale or otherwise, transfers title to stock by delivery of certificates assigned in blank, shall, as a part of such transaction, promptly make and deliver to the buyer, or transferee, a bill or memorandum of such agreement to sell, sale, or transfer, duly signed by the seller, or transferor, or his agent, to which the requisite stamps shall be affixed and cancelled. Such bill or memorandum shall show the date of the transaction, the names of the parties thereto, the description and number of shares of stock, the tax paid on the transaction, and, where a sale is involved, the sale price. (See § 43.6001-2, contained in Subpart J of this part.)

#### § 43.4321-5 Records of sales and transfers of stock.

For recordkeeping requirements, see § 43.6001-1, contained in Subpart J of this part.

#### § 43.4321-6 Registration of brokers, exchanges, nominees, etc.

For provisions with respect to registration of brokers, exchanges, nominees,

etc., see § 43.6001-4, contained in Subpart J of this part.

#### § 43.4321-7 Rules applicable to clearing houses.

For rules applicable to clearing houses, see § 43.6001-2, contained in Subpart J of this part.

#### § 43.4322 Statutory provisions; exemptions.

SEC. 4322. *Exemptions.*—(a) *Exemptions for certain transfers.* The tax imposed by section 4321 shall not apply to any delivery or transfer of shares, certificates, or rights—

(1) *Loans.* To a borrower as a loan of such shares, certificates, or rights, or to the lender as a return of such loans;

(2) *Brokers.* To a broker or his registered nominee for sale of such shares, certificates, or rights; by a broker or his registered nominee to a customer for whom and upon whose order the broker has purchased same; or by a purchasing broker to his registered nominee to be held by such nominee for the same purpose as if held by the broker;

(3) *Corporations.* From a corporation to a registered nominee of such corporation, or from one such nominee to another such nominee, provided that in each instance such shares, certificates, or rights are to be held by the nominee for the same purpose as if retained by the corporation; or from such nominee to such corporation; or

(4) *Worthless stock.* By an executor or administrator to a legatee, heir, or distributee, if it is shown to the satisfaction of the Secretary or his delegate that the value of such shares, certificates, or rights is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer.

(b) *Other exemptions.* For other exemptions, see sections 4341 to 4343, inclusive, and section 4382.

#### § 43.4322-1 Exemptions.

(a) *Loan of stock and return of stock loaned.* A mere loan of stock or the return of stock loaned is exempt from the tax imposed by section 4321 if the loan or return is accompanied by an exemption certificate in substantially the form prescribed in § 43.4344-1.

(b) *Transfer from customer to broker.*

(1) If stock is transferred to the name of a broker, or to the name of a broker's registered nominee, solely for the purpose of enabling such broker to sell the stock for the customer, the transfer is exempt from tax provided the broker furnishes at the time of transfer or delivery an exemption certificate in substantially the form prescribed in § 43.4344-1. For provisions relating to the registration of nominees, see § 43.6001-4 (b), contained in Subpart J of this part.

(2) A transfer to the name of a selling agent other than a broker, as, for example, a bank, whether the sale be made by the agent direct or through a broker for the agent's account, is subject to tax, since the exemption applies only to deliveries and transfers to brokers (but see § 43.4342-1 (b)). However, liability is not incurred by the mere delivery of a certificate of stock to an agent who obtains no legal title or other interest in the stock.

(c) *Transfer from broker to customer.*

(1) If stock is transferred to the name of a purchasing broker or his registered nominee who holds the stock for the



same purpose as if held by the broker and tax on such transfer is paid, transfer may thereafter be made to the name of the purchaser (for whom and upon whose order the broker has purchased such stock) without payment of tax. If the tax was paid upon the transfer to the name of the purchasing broker, transfer may be made to the name of his registered nominee and from such nominee to the name of the purchaser without payment of tax. However, no exemption will be allowed under this paragraph unless the broker furnishes at the time of transfer or delivery an exemption certificate in substantially the form prescribed in § 43.4344-1. For provisions relating to the registration of nominees, see § 43.6001-4 (b), contained in Subpart J of this part.

(2) Delivery to, or transfer to the name of, the customer may not be made tax-free in any case in which the stock was transferred from the seller to the broker or his registered nominee without payment of the tax, since the law requires that the tax shall be paid on the transfer or transfers between the actual seller and actual buyer. A transfer from the name of a purchasing agent other than a broker, as, for example, a bank, whether the purchase be made direct or through a broker for the agent's account, is subject to tax, since the exemption applies only to deliveries and transfers from brokers (but see § 43.4342-1 (b)). However, liability is not incurred by the mere delivery to the principal of a certificate of stock by an agent having no legal title or other interest in the stock, or by a broker for the account of such agent.

(d) *Transfers between corporations and nominees.* The tax does not apply to the delivery or transfer of stock from a corporation to a registered nominee of such corporation, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such corporation; or from such nominee to such corporation. No exemption is granted unless the nominee is registered in the manner provided in § 43.6001-4 (b), contained in Subpart J of this part. Nor shall the exemption be granted in any case unless the delivery or transfer is accompanied by an exemption certificate, executed by the person making the exempt transfer, in substantially the form prescribed in § 43.4344-1.

(e) *Transfers of worthless securities by executors, etc.* The tax does not apply to deliveries or transfers of stock by an executor or administrator to a legatee, heir, or distributee, if it is shown to the satisfaction of the district director that the value of the stock so delivered or transferred is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer.

#### § 43.4323 Statutory provisions; affixing of stamps.

SEC. 4323. *Affixing of stamps.*—(a) *Books of the corporation.* The stamps representing the tax imposed by section 4321 shall be affixed to the books of the corporation in case of sale where the evidence of transfer is shown only by the books of the corporation.

(b) *Other evidences of sale or transfer.* For provisions applicable to the affixing of stamps in cases of sale or transfer, shown otherwise than only by the books of the corporation, see section 4353.

#### § 43.4323-1 Affixing of stamps.

(a) Only documentary stamps shall be used in payment of the tax imposed by section 4321. In the case of a sale or transfer evidenced only by the books of the corporation or other organization, the requisite stamps shall be affixed to such books. In the case of a sale or transfer evidenced otherwise than only by the books of the corporation or other organization, see section 4353 and § 43.4353-1 (a) for provisions relating to the affixing of the requisite stamps. See also §§ 43.6804-1 and 43.6804-2, contained in Subpart J of this part, for the appropriate use, denominations, and cancellation of such stamps.

(b) Documentary stamps may be purchased, and requisitions for the purchase of such stamps may be obtained, only from the sources and in the manner provided in § 43.6802-1, contained in Subpart J of this part. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801, 6802 (§ 43.6802), and 6805 (§ 43.6805), and the regulations thereunder contained in the Regulations on Procedure and Administration (Part 301 of this chapter).

#### § 43.4324 Statutory provisions; cross references.

SEC. 4324. *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4344, 4351, 4352, 4381, and 4383, and subtitle F.

#### § 43.4324-1 Cross references.

(a) For definitions, see section 4351 and § 43.4351-1, section 4381 and §§ 43.4381-1 and 43.4381-2, and section 7701 (§ 43.7701).

(b) For penalties, see section 7271 and § 43.7271-1.

(c) For other general and administrative provisions, see section 4344 and § 43.4344-1, section 4352 and § 43.4352-1, section 4383 and § 43.4383-1, Subpart J of this part, and the applicable sections of the Regulations on Procedure and Administration (Part 301 of this chapter).

#### Subpart E—Tax on Sales or Transfers of Certificates of Indebtedness

#### § 43.4331 Statutory provisions; imposition of tax.

SEC. 4331. *Imposition of tax.* There shall be imposed a tax on each sale or transfer of any certificates of indebtedness, issued by a corporation, at the rate of 5 cents on each \$100 or fraction thereof of the face value.

#### § 43.4331-1 Imposition of tax.

(a) *Scope of tax.* Section 4331 imposes a tax on each sale or transfer (as defined in section 4351 (b)) within the territorial jurisdiction of the United States of certificates of indebtedness. See section 4381 (a) and § 43.4381-1 for definition of the term "certificates of indebtedness". The tax attaches at the time of making the sale or transfer, regardless of the time or manner of delivery of the certificate or agreement or memorandum of sale. As to sales or

transfers of warrants to subscribe for or purchase certificates of indebtedness, see § 43.4331-3. For requirements of maintenance of records and memoranda of such sales or transfers, see §§ 43.4331-4 and 43.4331-5. See § 43.4352 for the computation of the tax imposed on the transfer of an interest in a partnership owning certificates of indebtedness.

(b) *Rate and computation of tax.* (1) Where by sale or otherwise certificates of indebtedness of the same issue of a single corporation are transferred by a single transferor to a single transferee, the tax is 5 cents on each \$100 of face value, or fraction thereof, of the aggregate face value of all the certificates. Where there are two or more transferors or two or more transferees, or where in a single transaction transfer is made of certificates of two or more corporations or of two or more classes issued by a single corporation, a separate tax computation must be made with respect to each transferor and each transferee, and with respect to the certificates of each corporation and of the certificates of each class issued by a single corporation. The foregoing rule may be illustrated by the following examples:

*Example (1).* M, owning 25 class A bonds of the X Corporation and 25 class B bonds of the same corporation, and 50 class A bonds of the Y Corporation, transfers all the bonds to N. In this situation there are three taxable transfers, and a separate tax computation must be made with respect to the aggregate face value of the bonds involved in each.

*Example (2).* M, owning 100 class A bonds of the X Corporation, sells 50 bonds to N and 50 bonds to O. In this situation, there are two sales of 50 bonds each, and the tax is measured by the aggregate face value of the bonds sold to each purchaser.

*Example (3).* A husband and wife, each owning \$50,000 face amount of class A bonds of the X Corporation, simultaneously give their bonds to their son. In this situation, there are two gifts, and a separate computation must be made with respect to the aggregate face value of the bonds included in each gift.

(2) The separate tax computation required will result in a difference in the amount of tax only where the face value of the certificates transferred is not \$100 or multiples thereof.

(c) *Affixing of stamps.* (1) Only documentary stamps shall be used in payment of the tax imposed by section 4331. For provisions relating to the affixing of the requisite stamps in case of a sale or transfer of certificates of indebtedness, see section 4353 and § 43.4353-1 (b). See also §§ 43.6804-1 and 43.6804-2, contained in subpart J of this part, for the appropriate use, denominations, and cancellation of such stamps.

(2) Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, only from the sources and in the manner provided in § 43.6802-1, contained in subpart J of this part. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801, 6802 (§ 43.6802), 6805 (§ 43.6805), and the regulations thereunder contained in the Regulations on Procedure and Administration (Part 301 of this chapter).



**§ 43.4331-2 Illustrations.**

(a) *Sales and transfers subject to tax.* The tax on sales or transfers of certificates of indebtedness imposed by section 4331 is similar in scope to the tax on stock transfers imposed by section 4321. Accordingly, the various examples set forth in § 43.4321-2 (a) of sales and transfers of stocks subject to the stock transfer tax apply, with certain exceptions, to sales and transfers of certificates of indebtedness unless such sales and transfers of certificates of indebtedness are exempt from tax under a specific provision of the Internal Revenue Code (see sections 4332, 4341, 4342, 4343, and 4382 with respect to such exemptions). These exceptions are the examples stated in subparagraphs (9) and (10) of § 43.4321-2 (a). In addition, loans of certificates of indebtedness including intra-office borrowings and the return of certificates loaned are subject to the tax imposed under section 4331.

(b) *Sales and transfers not subject to tax.* In addition to the various exemptions prescribed in section 4382 which apply to documentary stamps taxes generally and to the specific exemptions provided in sections 4332, 4341, 4342, and 4343 and the regulations thereunder, the examples set forth in § 43.4321-2 (b) of sales and transfers of stocks not subject to the stock transfer tax illustrate sales and transfers of certificates if indebtedness which are not subject to the tax imposed by section 4331.

**§ 43.4331-3 Tax on warrants.**

(a) *To subscribe for certificates of indebtedness.* Warrants entitling the holder to subscribe for unissued certificates of indebtedness are not subject to tax under section 4331.

(b) *To purchase issued certificates of indebtedness.* Warrants entitling the holder to purchase issued certificates of indebtedness are, upon issuance, subject to tax under section 4331, as agreements to sell certificates. Subsequent transfers of such warrants are not subject to the transfer tax since the statute does not impose a tax upon transfers of agreements to sell certificates of indebtedness. For rate and computation of tax, see § 43.4331-1 (b). If the transfer tax is paid upon issuance of a warrant, the subsequent transfer of the certificate pursuant to the exercise of such warrant is not subject to the transfer tax. However, the person transferring the certificate shall furnish and attach thereto a statement substantially as follows:

It is hereby certified that the transfer of the attached certificates of indebtedness, (description and face value of certificates)

(name of transferee)

made pursuant to the exercise of a warrant which is in the possession of the undersigned, and that the requisite stamps due upon the issuance of such warrant have been affixed thereto.

(Signature)

**§ 43.4331-4 Requirement of memoranda of agreement to sell, etc.**

Every person who makes an agreement to sell certificates of indebtedness, or

who, by sale or otherwise, transfers title to certificates by delivery, including a person who lends certificates or returns certificates which have been borrowed, shall, as a part of the transaction, promptly make and deliver to the buyer, transferee, borrower, or lender, a bill or memorandum of such agreement to sell, transfer, loan, or return, duly signed by the seller, or transferer, or lender, or borrower, or his agent, to which the requisite stamps shall be affixed and canceled. Such bill or memorandum shall show the date of the transaction, the names of the parties thereto, and description and number of the certificates, and the tax paid on the transaction. No more than one stamped bill or memorandum shall be required in respect of any single transaction. (See § 43.6001-2, contained in subpart J of this part, relative to rules applicable to clearing houses.)

**§ 43.4331-5 Records of sales and transfers of certificates of indebtedness.**

The provisions of § 43.6001-1, contained in subpart J of this part, relative to records of sales and transfers of stock are also applicable to sales and transfers of certificates of indebtedness, except that the records of sales of certificates of indebtedness need not show the sales prices, since the selling price is immaterial for purposes of the tax imposed by section 4331.

**§ 43.4331-6 Registration of brokers, exchanges, and nominees.**

The provisions of § 43.6001-4, contained in subpart J of this part, relative to registration requirements in connection with transactions involving stock are also applicable to transactions involving certificates of indebtedness.

**§ 43.4331-7 Rules applicable to clearing houses.**

The provisions of § 43.6001-2, contained in subpart J of this part, containing rules applicable to clearing houses where stock transactions are involved are also applicable with respect to transactions involving certificates of indebtedness.

**§ 43.4332 Statutory provisions; exemptions.**

Sec. 4332. *Exemptions*—(a) *Brokers.* The tax imposed by section 4331 shall not apply to any delivery or transfer to a broker for sale, nor upon any delivery or transfer by a broker to a customer for whom and upon whose order he has purchased same.

(b) *Installment purchase of obligations.* The tax imposed by section 4331 shall not apply to any instrument under the terms of which the obligee is required to make payment therefor in installments and is not permitted to make in any year a payment of more than 20 percent of the cash amount to which entitled upon maturity of the instrument.

(c) *Other exemptions.* For other exemptions, see section 4341 to 4343, inclusive, and section 4382.

[Sec. 4332 as amended by Act of Jan. 28, 1956, 70 Stat. 9, effective as of January 1, 1955]

**§ 43.4332-1 Exemptions.**

(a) *Transfers to or from brokers.* The rules stated in § 43.4322-1 (b) and (c) with respect to the exemption of

transfers to or by brokers from the tax imposed by section 4321 also apply with respect to the tax imposed by section 4331.

(b) *Other exemptions.* For other exemptions with respect to the tax imposed on sales or transfers of certificates of indebtedness, see sections 4341, 4342, 4343, and 4382 and the regulations thereunder.

**§ 43.4333 Statutory provisions; cross references.**

Sec. 4333. *Cross references.* For definitions, penalties, and other general and administrative provisions applicable to this part, see sections 4344, 4381, and 4383; sections 4351 to 4353, inclusive; and subtitle F.

**§ 43.4333-1 Cross references.**

(a) For definitions, see section 4351 and § 43.4351-1, section 4381 and § 43.4381-1 and 43.4381-2, and section 7701 (§ 43.7701).

(b) For penalties, see section 7271 and § 43.7271-1.

(c) For other general and administrative provisions, see section 4344 and § 43.4344-1, section 4352 and § 43.4352-1, section 4353 and § 43.4353-1, section 4383 and § 43.4383-1, subpart J of this part, and the applicable sections of the Regulations on Procedure and Administration (Part 301 of this chapter).

**Subpart F—Provisions Common to Sales or Transfers of Capital Stock and Certificates of Indebtedness****EXEMPTIONS****§ 43.4341 Statutory provisions; transfers as security.**

Sec. 4341. *Transfers as security.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Collateral security.* To a lender as collateral security for money loaned thereon, provided that such collateral security is not actually sold; or

(2) *Security for performance.* To a trustee or public officer made pursuant to Federal or State law as security for the performance of an obligation, or by such trustee or public officer as a return of such security.

**§ 43.4341-1 Transfers as security.**

(a) *Stock or certificates of indebtedness deposited as collateral security.* The tax imposed by section 4321 or 4331 does not apply to an agreement evidencing a deposit of certificates of stock or certificates of indebtedness as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of the certificates so deposited. The exemption applies also to transfers of stock or certificates of indebtedness to a nominee of the lender and from such nominee back to the lender, if the stock or certificates of indebtedness are at all times held as collateral security for the loan; and to the return of the stock or certificates of indebtedness to the borrower by the lender or his nominee upon payment of the loan. The exemption does not apply, however, to deposits of stock or certificates of indebtedness as collateral security made otherwise than in connection with money loaned on such stock or certificates. The

person making an exempt transfer under this paragraph shall, at the time of transfer or delivery, furnish an exemption certificate in substantially the form prescribed in § 43.4344-1. If the delivery or transfer is not accompanied by the required exemption certificate the person making the delivery or transfer will be required to pay the tax imposed by section 4321 or 4331. However, if an exemption certificate is furnished after the transfer or delivery, such person will be entitled to a refund of the tax paid upon filing a timely claim for refund.

(b) *Transfer of stock or certificates of indebtedness made pursuant to Federal or State law to secure the performance of obligations.* The tax imposed by section 4321 or section 4331 does not apply to any delivery or transfer of stock or certificates of indebtedness to a trustee or public officer, which is made pursuant to Federal or State law to secure the performance of an obligation, or to a redelivery or retransfer of such stock or certificates of indebtedness to the transferor. The exemption provided under this paragraph shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 43.4344-1.

#### § 43.4342 Statutory provisions; fiduciaries and custodians.

Sec. 4342. *Fiduciaries and custodians.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Fiduciaries.* From a fiduciary to his nominee, or from one nominee of the fiduciary to another nominee, provided that in each instance such instruments are to be held by the nominee for the same purpose as if retained by the fiduciary; or from the nominee to such fiduciary; or

(2) *Custodians.* (A) From the owner to a custodian if under a written agreement between the parties such instruments are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

(B) From a custodian as specified in subparagraph (A) to a registered nominee of such custodian, or from one such nominee to another such nominee, provided that in each instance such instruments are to be held by the nominee for the same purpose as if retained by the custodian; or from such nominee to such custodian.

#### § 43.4342-1 Transfers to or by fiduciaries or custodians.

(a) *Transfers between fiduciaries and their nominees.* The tax imposed by section 4321 or 4331 does not apply to deliveries or transfers of stock or certificates of indebtedness from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if the stock or certificates of indebtedness are to be held by such nominee for the same purpose as they would be held if retained by such fiduciary. Nor does the tax apply to deliveries or transfers from a nominee of a fiduciary to such fiduciary. The exemption provided under this paragraph shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 43.4344-1.

#### (b) *Transfers to or by a custodian.*

(1) The tax imposed by section 4321 or 4331 does not apply to the delivery or transfer of stock or certificates of indebtedness from the owner thereof to a custodian if, under a written agreement between the owner and the custodian, the instruments so delivered or transferred are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or to the delivery or transfer of stock or certificates of indebtedness from such custodian to such owner.

(2) The tax also does not apply to the delivery or transfer of stock or certificates of indebtedness from a custodian specified in subparagraph (1) of this paragraph to a registered nominee of such custodian, or from the owner direct to such registered nominee, or from one such nominee to another such nominee, if the stock or certificates of indebtedness are to be held by the nominee for the same purpose as they would be held if retained by such custodian. Nor does the tax apply to deliveries or transfers from a nominee of a custodian to such custodian or to the owner. No exemption is granted unless the nominee is registered in the manner provided in § 43.6001-4 (b), contained in Subpart J of this part.

(3) Moreover, the tax does not apply to the delivery or transfer of stock or certificates of indebtedness from a custodian of the owner to another custodian of the owner or from a registered nominee of the first custodian to the second custodian or to the registered nominee of the latter, if the transfer would have been exempt under subparagraph (1) or (2) of this paragraph if made by the owner direct to the second custodian or to the registered nominee of the latter.

(4) For purposes of this paragraph, a custodian is a person to whom stock or certificates of indebtedness are delivered or transferred to be held or disposed of by such person for, and subject at all times to the instructions of, the owner and not otherwise. The term "custodian", as used in this paragraph, does not include a trustee. A custodian is to be distinguished from a nominee who merely lends his name and usually does not retain possession of the securities registered in his name.

(5) The exemption provided under this paragraph shall be granted only if the delivery or transfer is accompanied by an exemption certificate in substantially the form prescribed in § 43.4344-1.

#### § 43.4343 Statutory provisions; transfers by operation of law.

Sec. 4343. *Transfers by operation of law—* (a) *Exempt transfers.* The taxes imposed by sections 4321 and 4331 shall not apply to any delivery or transfer of any of the instruments referred to in such sections—

(1) *Decedents.* From a decedent to his executor or administrator;

(2) *Minors.* From a minor to his guardian, or from a guardian to his ward upon attaining majority;

(3) *Incompetents.* From an incompetent to his committee or similar legal representative, or from a committee or similar legal representative to a former incompetent upon removal of disability;

(4) *Financial institutions.* From a bank, trust company, financial institution, insurance company, or other similar entity, or nominee, custodian, or trustee therefor, to a public officer or commission, or person designated by such officer or commission or by a court, in the taking over of its assets, in whole or part, under Federal or State law regulating or supervising such institutions, nor upon redelivery or retransfer by any such transferee or successor thereto;

(5) *Bankrupts.* From a bankrupt or person in receivership due to insolvency to the trustee in bankruptcy or receiver, from such receiver to such trustee, or from such trustee to such receiver, nor upon redelivery or retransfer by any such transferee or successor thereto;

(6) *Successors.* From a transferee under paragraphs (1) to (5), inclusive, to his successor, acting in the same capacity, or from one such successor to another;

(7) *Foreign governments and aliens.* From a foreign country or national thereof to the United States or any agency thereof, or to the government of any foreign country; directed pursuant to the authority vested in the President by section 5 (b) of the Trading With the Enemy Act (40 Stat. 415), as amended by the First War Powers Act, 1941 (55 Stat. 838; 50 U. S. C. App. 5);

(8) *Trustees.* From trustees to surviving, substituted, succeeding, or additional trustees of the same trust; or

(9) *Survivors.* Upon the death of a joint tenant or tenant by the entireties, to the survivor or survivors.

(b) *Nonexempt transfers.* No delivery or transfer shall be exempt because effected by operation of law unless an exemption is otherwise specifically provided.

#### § 43.4343-1 Transfers by operation of law.

No delivery or transfer shall be exempt from the tax imposed by section 4321 or 4331 because effected by operation of law unless an exemption is otherwise specifically provided. Each of the transfers specified in section 4343 (a) is exempt from tax, but only if the delivery or transfer is accompanied by an exemption certificate as provided in § 43.4344-1.

#### § 43.4344 Statutory provisions; exemption certificates.

Sec. 4344. *Exemption certificates.* No exemption shall be granted under section 4322 (a) (1), (2), or (3), section 4332 (a), section 4341 (2), section 4342, or under section 4343 (a) unless the delivery or transfer is accompanied by a certificate setting forth such facts as the Secretary or his delegate may by regulations prescribe.

#### § 43.4344-1 Exemption certificates.

No exemption shall be granted under section 4322 (a) (1), (2), or (3), section 4332 (a), section 4341 (2), section 4342, or section 4343 (a) unless the delivery or transfer is accompanied by a certificate in substantially the following form:

It is hereby certified that the transfer of the accompanying instrument(s) is made under such circumstances as to come within one of the exemptions specified in section 4322 (a) (1), (2), or (3), 4332 (a), 4341 (2), 4342, or 4343 (a) of the Internal Revenue Code, and that the evidence in proof of the exemption is maintained by the undersigned and is available for inspection by internal revenue officers.

(Signature)

**§ 43.4345 Statutory provisions; cross references.**

SEC. 4345. *Cross references.* For other exemptions, see sections 4322, 4332, and 4382.

**MISCELLANEOUS PROVISIONS**

**§ 43.4351 Statutory provisions; definitions.**

SEC. 4351. *Definitions*—(a) *Registered nominee.* For the purpose of this subchapter, the term "registered nominee" means any person registered with the official in charge of the collection district in accordance with such regulations as the Secretary or his delegate shall prescribe.

(b) *Sale or transfer.* For the purpose of this subchapter, the term "sale or transfer" means any sale, agreement to sell, memorandum of sale or delivery, or transfer of legal title, whether or not shown by the books of the corporation or other organization (or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale); and whether or not the holder acquires a beneficial interest in the instruments.

**§ 43.4351-1 Definitions.**

(a) *Registered nominee.* For purposes of the regulations in this part, the term "registered nominee" means any person registered as such in accordance with § 43.6001-4 (b), contained in Subpart J of this part.

(b) *Sale or transfer.* For purposes of the regulations in this part, the term "sale or transfer" includes sales of, agreements to sell, or memoranda of sales of, stock or certificates of indebtedness; deliveries of stock or certificates of indebtedness with intent to pass title; transfers of legal title to stock or certificates of indebtedness; transfers of rights to subscribe for stock; and transfers of rights to receive stock. The tax imposed by section 4321 and by section 4331 applies to the specified dealings or transactions in stock or certificates of indebtedness, whether effected by any assignment in blank, or by any delivery, or by any paper, agreement, memorandum or other evidence of transfer or sale (and in the case of stock, whether made before, after, or without the issuance of a certificate and whether made upon or shown by the books of the corporation or other organization), and without regard to whether the holder or transferee of the stock or certificate of indebtedness (or specified right in the case of stock) is entitled to any beneficial interest therein. For definition of the term "agreement to sell", see § 43.4381-2 (a).

**§ 43.4352 Statutory provisions; stock or certificates of indebtedness owned by a partnership.**

SEC. 4352. *Stock or certificates of indebtedness owned by a partnership.* In the case of a transfer of an interest in a partnership owning any of the instruments referred to in sections 4321 and 4331, the tax imposed by each of such sections shall be that proportion of the tax computed on the transfer of all of the instruments taxable under each of such sections that—

(1) The interest in the partnership transferred bears to

(2) The total interests in the partnership of all the partners.

**§ 43.4352-1 Transfer of an interest in a partnership.**

(a) The tax imposed by section 4321 and by section 4331 on a transfer of an

interest in a partnership, owning stock or certificates of indebtedness, is an amount equal to that proportion of each such tax computed on the transfer of all such stock and certificates of indebtedness owned by the partnership that the interest in the partnership transferred bears to the total interests in the partnership of all the partners.

(b) A tax is payable on the transfer by one or more of the partners of his or their interest or interests, either in whole or in part, in the partnership, to one or more of the remaining partners or to one or more new partners admitted to the partnership. However, any change in the partnership accounts, resulting from periodic or varying withdrawals of earnings, does not constitute a transfer of an interest in a partnership and no tax is payable as the result of such a change.

**§ 43.4353 Statutory provisions; affixing of stamps.**

SEC. 4353. *Affixing of stamps.* The stamps representing the taxes imposed by section 4321 and section 4331 shall be affixed to—

(1) *Instrument.* The instrument where the change of ownership is by transfer of the instrument;

(2) *Bill or memorandum of sale.* The bill or memorandum of sale in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank; such bill or memorandum of sale shall be made and delivered by the seller to the buyer, and shall show the date thereof, the name of the seller, the amount of the sale, and the instrument to which it refers.

**§ 43.4353-1 Affixing of stamps.**

(a) *Stock.* (1) In cases of agreements to sell stock and transfers of title thereto by delivery of certificates assigned in blank, the stamps shall be fixed to the memoranda of such transactions (see § 43.4321-4).

(2) In all cases where the change of ownership of the stock is by transfer or delivery under special endorsement, i. e., by insertion of the name of the transferee in the endorsement or power of attorney on the back of the certificate, the stamps shall be affixed to the certificate, whether or not the change of ownership results from a sale.

(3) In all cases where the evidence of sale or transfer is shown only by the books of the corporation or other organization, the stamps shall be affixed to such books (see section 4323).

(b) *Certificates of indebtedness.* (1) In cases of agreements to sell certificates of indebtedness and transfers of title thereto, including loans, by delivery of certificates assigned in blank, the stamps shall be affixed to the memoranda of such transactions (see § 43.4331-4).

(2) In all cases where the change of ownership of the certificate of indebtedness is by transfer or delivery under special endorsement, i. e., by insertion of the name of the transferee in the endorsement on the back of the certificate, the stamps shall be affixed to the certificate, whether or not the change of ownership results from a sale.

(c) *In general.* In no event shall any corporation or transfer agent transfer any shares, certificates of stock, or certificates of indebtedness unless stamps for the transfer tax due has been properly affixed and canceled as required by the regulations in this part.

**§ 43.4354 Statutory provisions; cross references.**

SEC. 4354. *Cross references.* For penalties and other general and administrative provisions applicable to this subchapter, see section 4383 and subtitle F.

**§ 43.4354-1 Cross references.**

(a) For definitions, see section 4381, §§ 43.4381-1 and 43.4381-2, and section 7701 (§ 43.7701).

(b) For penalties see section 7271 and § 43.7271-1.

(c) For other general and administrative provisions, see section 4383, § 43.4383-1, Subpart J of this part, and the applicable sections of the Regulations on Procedure and Administration (Part 301 of this chapter).

**Subpart G—Tax on Conveyances**

**§ 43.4361 Statutory provisions; imposition of tax.**

SEC. 4361. *Imposition of tax.* There shall be imposed a tax on each deed, instrument, or writing (unless deposited in escrow before April 1, 1932), whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100 and does not exceed \$500, in the amount of 55 cents; and at the rate of 55 cents for each additional \$500 or fractional part thereof.

**§ 43.4361-1 Imposition of tax.**

(a) *Scope of tax.* (1) Section 4361 imposes a tax upon deeds, instruments, or other writings, whereby realty sold is granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or, at his direction, any other person, when the consideration for, or value of, the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100.

(2) The tax is limited to conveyances of realty sold and does not apply to other conveyances (see § 43.4361-2 (b)). The tax attaches at the time the deed or other instrument of conveyance is delivered, irrespective of the time when the sale is made. Deeds deposited in escrow become subject to the tax upon delivery to the grantee. A conveyance of realty subject to an equity of redemption is taxable when made, not when the time for redemption expires.

(3) For purposes of the tax imposed by section 4361, the determination of what constitutes "realty" is not controlled by the definition or scope of that term under State law. State law determines the character of the rights conveyed by an instrument, but whether such conveyance constitutes a conveyance of "realty" is to be determined under Federal law.

(4) For purposes of the regulations in this part—

(i) The term "realty" includes—

(a) Those interests in real property which endure for a period of time, the termination of which is not fixed or ascertained by a specific number of years, such as an estate in fee simple, life estate, perpetual easement, etc., and

(b) Those interests enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consist of a bundle of rights approximating those of the class of interests mentioned in subdivision (i) (a) of this subparagraph.

(ii) The term "sold" imports a transfer of an interest for a valuable consideration, which may involve money or anything of value.

(iii) The term "deed" includes any instrument or writing whereby realty is assigned, transferred, or otherwise conveyed to, or vested in, the purchaser, or at his direction, any other person.

(b) *Rate and computation of tax.* The rate of tax is 55 cents on each \$500 or fractional part thereof of the net consideration paid for, or the net value of, the realty conveyed, that is, the gross consideration or gross value less, in either case, the amount of all liens or encumbrances on the realty existing before the sale and not removed thereby. The tax is based upon the net consideration where it is definite in amount, or may be definitely determined. The tax is based upon net value where the amount of the consideration is indefinite, or is left open to be fixed by future contingencies. In determining the amount of the net consideration for, or net value of, the realty conveyed, only the amount of the liens and encumbrances on the property existing before the sale and not removed thereby may be deducted. Thus, for example, taxes or assessments which are liens on the property before the sale and are not paid at the time of sale are deductible. No deduction shall be made on account of any lien or encumbrance placed upon the property in connection with the sale, or by reason of deferred payments of the purchase price whether represented by notes or otherwise.

#### § 43.4361-2 Illustrations.

(a) *Conveyances subject to tax.* The following are examples of conveyances subject to the tax:—

(1) A conveyance of realty in exchange for other property; also the conveyance of the other property, if it is realty.

(2) A conveyance of realty in consideration of life maintenance. The tax is computed on the net value of the realty conveyed.

(3) A conveyance by a defaulting mortgagor to the mortgagee in consideration of the cancellation of the mortgage debt. The tax is computed on the amount of the unpaid mortgage debt plus unpaid accrued interest.

(4) Deeds given by masters in chancery, sheriffs, clerks of court, etc., for realty sold under foreclosure or execution. The tax is computed on the amount bid for the property plus the costs if paid by the purchaser, whether the purchaser is the mortgagee, judgment creditor, or any other person.

(5) A conveyance of realty by a judgment or decree in a condemnation proceeding under the power of eminent domain, or a conveyance of such property under threat or imminence of such proceeding.

(6) Conveyances to or by building and loan associations. However, the tax does not apply to a conveyance of realty to a building and loan association for the purpose of securing a loan thereon, nor to the reconveyance of the realty to its owner as part of the loan transaction.

(7) A conveyance of realty to a corporation in exchange for shares of its capital stock.

(8) A conveyance of realty by a corporation in liquidation or in dissolution to its shareholders subject to the debts of the corporation; however, if there are no corporate debts and the conveyance is made solely for the cancellation and retirement of the capital stock, the tax does not apply.

(9) Deeds to standing timber and to mines. (For definition of the term "deed", see § 43.4361-1 (a) (4) (iii).)

(10) In jurisdictions where common-law dower still exists, an instrument conveying the estate acquired by a widow upon assignment of dower. However, an instrument purporting to convey the inchoate right of dower of a wife, or the consummate right of dower of a widow prior to assignment of dower, is not subject to the tax. Where by statute dower has been abolished and in lieu thereof a different interest in the husband's real property conferred upon the wife, the taxability of an instrument purporting to convey such interest prior to its assignment must be determined by the nature of the wife's interest as fixed by the statutes and decisions of the jurisdiction in which the real estate is located.

(11) A conveyance of real estate sold to or by the United States of America (see, however, § 43.4383-1).

(12) A conveyance of realty by a partner to the partnership as a contribution of partnership assets.

(b) *Conveyances not subject to tax.* In addition to the various exemptions prescribed in sections 4362 and 4382 and in the Bankruptcy Act as amended, the following are examples of conveyances not subject to tax:

(1) The reconveyance of realty, conveyed to secure a debt, upon payment of such debt.

(2) Conveyances of realty without consideration and otherwise than in connection with a sale, including a deed conveying realty as a bona fide gift, although the deed may recite a consideration for the transfer, such as "natural love and affection and \$1", "desire to promote public welfare and \$1", or "\$1 and other valuable consideration"; a gift of realty by a husband to his wife accomplished through the conveyance of the property for an ostensible consideration to a "straw man" who immediately reconveys the property to the wife; and a deed to or by a trustee not pursuant to a sale.

(3) A deed to confirm title already vested in the grantee, such as a quitclaim deed to correct a flaw in title.

(4) A deed given by an executor in accordance with the terms of the will; however, if, by reason of a consideration passing between devisees, one of them takes a greater share in the realty than that to which he is entitled under the will, the deed given by the executor to

convey such greater share is subject to a tax computed upon the amount of such consideration.

(5) A deed from an agent to his principal conveying real estate purchased for and with funds of the principal.

(6) An option for the purchase of real property or a contract for the sale of real property, if the contract does not vest legal title.

(7) Partition deeds, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess.

(8) Ordinary leases of real property for a definite term of years (see, however, § 43.4361-1 (a) (4) (i)).

(9) A deed executed by a debtor conveying property to a trustee for the benefit of his creditors; however, when the trustee conveys such property to a creditor or sells it to any other person, the deed executed by him is taxable.

(10) Conveyance to a receiver of realty included in the receivership assets, and reconveyance of such realty upon termination of the receivership.

(11) A deed conveying real estate situated in a foreign country.

(12) Transfer of real estate in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation.

#### § 43.4361-3 Affixing of stamps.

(a) Only documentary stamps shall be used in payment of the tax imposed by section 4361. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. See §§ 43.6804-1 and 43.6804-2, contained in Subpart J of this part, for the appropriate use, denominations, and cancellation of such stamps.

(b) Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, only from the sources and in the manner provided in § 43.6802-1, contained in Subpart J of this part. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801, 6802 (§ 43.6802), 6805 (§ 43.6805), and the regulations thereunder contained in the Regulations on Procedure and Administration (Part 301 of this chapter).

#### § 43.4362 Statutory provisions; exemptions.

Sec. 4362. *Exemptions*—(a) *Security for debt.* The tax imposed by section 4361 shall not apply to any instrument or writing given to secure a debt.

(b) *Other exemptions.* For other exemptions, see section 4382.

#### § 43.4362-1 Exemptions.

Section 4362 expressly exempts from the tax imposed by section 4361 any instrument or writing, such as a mortgage or a deed of trust, given to secure a debt.

#### § 43.4363 Statutory provisions; cross references.

Sec. 4363. *Cross references.* For penalties and other general and administrative provisions applicable to this subchapter, see section 4383 and Subtitle F.

### § 43.4363-1 Cross references.

(a) For definitions, see section 4381, §§ 43.4381-1 and 43.4381-2, and section 7701 (§ 43.7701).

(b) For penalties, see section 7271 and § 43.7271-1.

(c) For other general and administrative provisions, see section 4383, § 43.4383-1, Subpart J of this part, and the applicable sections of the Regulations on Procedure and Administration (Part 301 of this chapter).

### Subpart H—Tax on Policies Issued by Foreign Insurers

#### § 43.4371 Statutory provisions; imposition of tax.

SEC. 4371. *Imposition of tax.* There shall be imposed a tax on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer at the following rates:

(1) *Casualty insurance and indemnity bonds.* Four cents on each dollar, or fractional part thereof, of the premium charged on the policy of casualty insurance or the indemnity bond, if issued to or for, or in the name of, an insured as defined in section 4372 (d);

(2) *Life insurance, sickness, and accident policies, and annuity contracts.* One cent on each dollar, or fractional part thereof, of the premium charged on the policy of life, sickness, or accident insurance, or annuity contract, unless the insurer is subject to tax under section 816;

(3) *Reinsurance.* One cent on each dollar, or fractional part thereof, of the premium charged on the policy of reinsurance covering any of the contracts taxable under paragraph (1) or (2).

[Sec. 4371 as amended by Act of Mar. 13, 1956, 70 Stat. 49; effective with respect to taxable years beginning after December 31, 1954]

#### § 43.4371-1 Imposition of tax on policies issued by foreign insurers; scope of tax.

(a) *Certain insurance policies, and indemnity, fidelity, or surety bonds.* Section 4371 (1) imposes a tax upon each policy of insurance (other than those referred to in paragraph (b) of this section), upon each indemnity, fidelity, or surety bond, or upon each certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance of the character involved or an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which the insurer is authorized to do business; and

(2) To or for, or in the name of, a domestic corporation, domestic partnership, or an individual resident of the United States, against or with respect to hazards, risks, losses, or liabilities wholly or partly within the United States; or

(3) To or for, or in the name of, a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States with respect to hazards, risks, or

liabilities wholly within the United States.

For definition of the term "indemnity bond", see section 4372 (c).

(b) *Life insurance, sickness, and accident policies and annuity contracts.* Section 4371 (2) imposes a tax upon each policy of insurance or annuity contract, or certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance or an annuity contract is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which such insurer is authorized to do business, or if not so signed or countersigned, the insurer is not subject to tax under section 816 (or, in the case of taxable years beginning before January 1, 1955, section 807); and

(2) To any person with respect to the life or hazards to the person of a citizen or resident of the United States.

(c) *Reinsurance.* Section 4371 (3) imposes a tax upon each policy of reinsurance, certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of reinsurance is made, continued, or renewed, if issued—

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as reinsurer, and the policy or other instrument is not signed or countersigned by an officer or agent of the reinsurer in a State, Territory, or the District of Columbia in which such reinsurer is authorized to do business; and

(2) To any person against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts described in section 4371 (1) or (2).

(d) *Exempt indemnity bonds.* The tax imposed by section 4371 does not apply to any indemnity bond described in section 4373 (2).

#### § 43.4371-2 Rate and computation of tax.

(a) *Rate of tax.* (1) The tax under section 4371 (1) is imposed at the rate of 4 cents on each dollar, or fractional part thereof, of the premium charged.

(2) The tax under section 4371 (2) and (3) is imposed at the rate of 1 cent on each dollar, or fractional part thereof, of the premium charged.

(b) *Computation of tax.* The tax is measured strictly by the amount of the premium charged. The time and method of payment of the premium are immaterial; the tax liability attaches if the insurance becomes effective, even though the premium is never paid. The full rate of tax applies to each fractional part of a dollar of the premium charged. For example, upon a premium charge of \$10.10, the tax at the rate of 4 cents amounts to 44 cents, and at the rate of 1 cent amounts to 11 cents.

(c) *Meaning of premium.* For purposes of the regulations in this part, the term "premium" means the agreed

price or consideration for assuming and carrying the risk or obligation, and includes any additional assessment or charge which may be assessed or charged under the contract, whether payable in one sum or installments.

#### § 43.4372 Statutory provisions; definitions.

SEC. 4372. *Definitions.*—(a) *Foreign insurer or reinsurer.* For the purpose of this subchapter, the term "foreign insurer or reinsurer" means an insurer or reinsurer who is a nonresident alien individual, or a foreign partnership, or a foreign corporation. The term includes a nonresident alien individual, foreign partnership, or foreign corporation which shall become bound by an obligation of the nature of an indemnity bond.

(b) *Policy of casualty insurance.* For the purpose of section 4371 (1), the term "policy of casualty insurance" means any policy (other than life) or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed.

(c) *Indemnity bond.* For the purpose of this subchapter, the term "indemnity bond" means any instrument by whatever name called whereby an obligation of the nature of an indemnity, fidelity, or surety bond is made, continued or renewed. The term includes any bond for indemnifying any person who shall have become bound or engaged as surety, and any bond for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, where a premium is charged for the execution of such bond.

(d) *Insured.* For the purpose of section 4371 (1), the term "insured" means—

(1) A domestic corporation or partnership, or an individual resident of the United States, against, or with respect to, hazards, risks, losses, or liabilities wholly or partly within the United States, or

(2) A foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States, with respect to hazards, risks, or liabilities within the United States.

(e) *Policy of life, sickness, or accident insurance, or annuity contract.* For the purpose of section 4371 (2), the term "policy of life, sickness, or accident insurance, or annuity contract" means any policy or other instrument by whatever name called whereby a contract of insurance or an annuity contract is made, continued, or renewed with respect to the life or hazards to the person of a citizen or resident of the United States.

(f) *Policy of reinsurance.* For the purpose of section 4371 (3), the term "policy of reinsurance" means any policy or other instrument by whatever name called whereby a contract of reinsurance is made, continued, or renewed against, or with respect to, any of the hazards, risks, losses, or liabilities covered by contracts taxable under paragraph (1) or (2) of section 4371.

#### § 43.4373 Statutory provisions; exemptions.

SEC. 4373. *Exemptions.* The tax imposed by section 4371 shall not apply to—

(1) *Domestic agent.* Any policy, indemnity bond, or annuity contract signed or countersigned by an officer or agent of the insurer in a State, Territory, or District of the United States within which such insurer is authorized to do business; or

(2) *Indemnity bond.* Any indemnity bond required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-saving certificate, warrant or check, issued by the United States.



**§ 43.4374 Statutory provisions; affixing of stamps.**

SEC. 4374. *Affixing of stamps.* Any person to or for whom or in whose name any policy, indemnity bond, or annuity contract referred to in section 4371 is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such instrument, shall affix the proper stamps to such instrument.

**§ 43.4374-1 Affixing of stamps.**

(a) *General.* (1) Documentary stamps shall be used in payment of the tax. Requisite stamps must be affixed to the first instrument whereby the taxable contractual relationship is created, continued, or renewed, whether it be a letter of acceptance, a cablegram, or other instrument by whatever name called. Where the instrument which creates or evidences the contractual relationship is confirmed by a subsequent instrument, the latter shall bear a notation designating such prior instrument (referred to in this section as the original instrument) and showing that the requisite stamps have been affixed thereto and canceled.

(2) In any case where the amount of the premium is not definitely determined at the time of entering into the taxable contractual relationship, the stamps may be affixed to the receipts for monthly or other payments if proper notation be made upon such receipts identifying the original instruments to which they apply.

(3) The stamps shall be affixed by any person who is a party to the taxable contractual relationship, including any solicitor or broker acting for or on behalf of such person.

(b) *Subsequent instruments.* In case a subsequent instrument provides for the payment of a premium greater than that provided for in the original instrument, the subsequent instrument must have affixed thereto stamps equal to the tax imposed upon the additional premium charged and must bear a notation of the stamps affixed to the original instrument.

(c) *Affixing of stamps.* (1) Only documentary stamps shall be used in payment of the tax imposed by section 4371. See also §§ 43.6804-1 and 43.6804-2, contained in Subpart J of this part, for the appropriate use, denominations, and cancellation of such stamps.

(2) Documentary stamps may be purchased, and requisition forms for the purchase of such stamps may be obtained, only from the sources and in the manner provided in § 43.6802-1, contained in Subpart J of this part. For provisions relating to distribution, supply, and redemption of stamps, see sections 6801, 6802 (§ 43.6802), 6805 (§ 43.6805), and the regulations thereunder contained in the Regulations on Procedure and Administration (Part 301 of this chapter).

(d) *Instruments without stamps or notation of stamping.* For provisions relating to the penalty for failure to comply with the requirements of section 4374, see § 43.7270, contained in Subpart J of this part.

(e) *Record requirements.* For provisions relating to the requirements concerning records and the retention of

policies for a period of 3 years, see § 43.6001-3, contained in Subpart J of this part.

**§ 43.4375 Statutory provisions; cross references.**

SEC. 4375. *Cross references.* For penalties and other general and administrative provisions, see section 4383 and subtitle F.

**§ 43.4375-1 Cross references.**

(a) For definitions, see section 4381, §§ 43.4381-1 and 43.4381-2, and section 7701 (§ 43.7701).

(b) For penalties, see section 7271 and § 43.7271-1.

(c) For other general and administrative provisions, see section 4383, § 43.4383-1, Subpart J of this part, and the applicable sections of the Regulations on Procedure and Administration (Part 301 of this chapter).

**Subpart I—Miscellaneous Provisions Applicable to Documentary Stamp Taxes**

**§ 43.4381 Statutory provisions; definitions.**

SEC. 4381. *Definitions.*—(a) *Certificates of indebtedness.* For purposes of the taxes imposed by sections 4311 and 4331, the term "certificates of indebtedness" means bonds and debentures; and also includes all instruments, however termed, issued by a corporation with interest coupons or in registered form, known generally as corporate securities.

(b) *Corporation.* For purposes of the taxes imposed by sections 4301 and 4331 [4321], the term "corporation" includes any investment trust or similar organization (or any person acting in behalf of such investment trust or similar organization) holding or dealing in shares or certificates of stock, or in certificates of indebtedness. The definition herein shall not be construed to limit the effect of the definition of the term "corporation" provided in section 7701 (a) (3).

(c) *Shares or certificates of stock.* For purposes of the taxes imposed by sections 4301 and 4331 [4321], the term "shares or certificates of stock" includes shares or certificates of profits or of interest in property or accumulations.

**§ 43.4381-1 Definitions.**

(a) *Certificates of indebtedness.* The term "certificates of indebtedness" includes bonds and debentures. Such term also includes all instruments, however termed, issued by a corporation with interest coupons or in registered form and known generally as corporate securities. The essence of a corporate security is marketability. An instrument is ordinarily considered to be marketable if it is issued in series, under a trust indenture, and in registered form or with interest coupons attached. For example, an instrument containing the essential features of a promissory note is included within the meaning of the term "certificates of indebtedness" if it has, in addition, the general characteristics of a corporate security. Whether or not an instrument is a certificate of indebtedness within the meaning of section 4381 (a) is not determined by its name alone, but depends upon all the facts which can be derived from the face of the instrument, such as the form and terms of the instrument. The nature of the transaction or any act appearing outside of

the instrument itself is immaterial for purposes of making such determination.

(b) *Corporation.* For purposes of the taxes imposed by sections 4301, 4311, 4321, 4331, 4361, and 4371, the term "corporation" includes associations, joint-stock companies, and insurance companies (see § 43.7701). For purposes of the taxes imposed by sections 4301 and 4321, the term "corporation" also includes any investment trust or similar organization (or any person acting in behalf of such investment trust or similar organization) holding or dealing in shares or certificates of stock, or in certificates of indebtedness. In addition, for purposes of the tax imposed by section 4311, section 4312 (a) provides that the term "corporation" also includes any receiver, trustee in bankruptcy, assignee, or other person having custody of property, or charge of the affairs, of the corporation.

(c) *Shares or certificates of stock.* For purposes of the regulations in this part, the term "stock" includes shares or certificates of stock. The term "stock" also includes shares in an association, joint-stock company, or insurance company (see § 43.7701). For purposes of the tax imposed by section 4321, the term "stock" also includes rights to subscribe for or to receive shares or certificates of stock (see § 43.4321-1 (a)). For purposes of the taxes imposed by sections 4301 and 4321, the term "shares or certificates of stock" includes shares or certificates of profits or of interest in property or accumulations.

**§ 43.4381-2 Other definitions.**

(a) *Agreement to sell, exchange, and clearing house.* As used in the regulations in this part, unless otherwise specified or indicated by the context—

(1) The term "agreement to sell" includes contracts to sell, either written or oral, and whether on the deferred or partial payment plan or otherwise, options, calls, offers, indemnities, and privileges.

(2) The term "exchange" includes each and every agency, office, room, or other place of assembly, whether under shelter or in the open, at which stocks, certificates of indebtedness, rights, or warrants are publicly bought, sold, bid for, offered, or exchanged, between persons there assembled, on behalf of themselves or others.

(3) The term "clearing house" includes every corporation, and every association of individuals, partnerships, or corporations, wholly or partly engaged in the business of clearing, settling or adjusting transactions in the purchase, sale, receipt, or delivery of stock, certificates of indebtedness, rights, or warrants, whether or not a part or department of an exchange or an independent body.

(b) *Cross references.* For other definitions, see §§ 43.0-2 and 43.7701.

**§ 43.4382 Statutory provisions; exemptions.**

SEC. 4382. *Exemptions.* (a) The taxes imposed by this chapter shall not apply to—

(1) *Government and state obligations.* Any certificate of indebtedness, note, or other instrument, issued by the United States, or



by any foreign government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power;

(2) *Domestic building and loan associations and mutual ditch or irrigation companies.* Shares or certificates of stock and certificates of indebtedness issued by domestic building and loan associations, savings and loan associations, cooperative banks, and homestead associations substantially all the business of which is confined to making loans to members, or by mutual ditch or irrigation companies;

(3) *Farmers', fruit growers', or cooperative associations.* Shares or certificates of stock and certificates of indebtedness issued by any farmers' or fruit growers' or like associations organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in section 521.

(b) The taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 shall not apply to—

(1) *Corporate and railroad reorganizations.* The issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances to make effective any plan of reorganization or adjustment confirmed or approved as indicated below, provided that the issuance, transfer, or exchange of securities, or the making, delivery or filing of instruments of transfer or conveyances, occurs within 5 years from the date of such confirmation or approval—

(A) Confirmed under the Bankruptcy Act, as amended (30 Stat. 544; U. S. C., Title 11),

(B) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in section 77 (m) of the Bankruptcy Act, as amended (49 Stat. 922; 11 U. S. C. 205 (m)), or

(C) Approved in an equity receivership proceeding in a court involving a corporation, as defined in section 106 (3) of the Bankruptcy Act, as amended (52 Stat. 883; 11 U. S. C. 506);

(2) *Orders of the Securities and Exchange Commission.* The issuance, transfer, or exchange of securities, or making or delivery of conveyances, to make effective any order of the Securities and Exchange Commission as defined in section 1083 (a): *Provided, That—*

(A) The order of the Securities and Exchange Commission in obedience to which such issuance, transfer, or exchange of securities or conveyances are made recites that such issuance, transfer, or exchange, or conveyances are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935 (49 Stat. 820; 15 U. S. C. 79k (b)),

(B) Such order specifies and itemizes the securities and other property which are ordered to be issued, transferred, exchanged, or conveyed, and

(C) Such issuance, transfer, or exchange, or conveyance is made in obedience to such order.

#### § 43.4382-1 Exemptions.

(a) *Government and State obligations.* Section 4382 (a) (1) exempts from the tax imposed by sections 4311 and 4331 any certificate of indebtedness issued by the United States, or by any foreign government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power.

(b) *Stocks and certificates of indebtedness of domestic building and loan associations, etc.* Section 4382 (a) (2) exempts from the tax imposed by section 4301, 4311, 4321, or 4331 any stock or certificate of indebtedness issued by a (1) domestic building and loan associa-

tion, savings and loan association, cooperative bank, or homestead association, substantially all the business of which is confined to making loans to members, or (2) mutual ditch or irrigation company. For definition of the term "domestic building and loan association", see § 43.7701.

(c) *Stocks and certificates of indebtedness of farmers', fruit growers', or cooperative associations.* Section 4382 (a) (3) exempts from the tax imposed by section 4301, 4311, 4321, or 4331 any stock or certificate of indebtedness issued by any farmers' or fruit growers' or like association organized and operated on a cooperative basis for the purposes, and subject to the conditions, prescribed in section 521. For regulations under section 521, see the Income Tax Regulations (Part 1 of this chapter).

(d) *Corporate and railroad reorganizations.* (1) Section 4382 (b) (1) exempts from the taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 the issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances, to make effective any plan of reorganization or adjustment—

(i) Confirmed under the Bankruptcy Act, as amended (30 Stat. 544; U. S. C. title 11);

(ii) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in section 77 (m) of the Bankruptcy Act, as amended (49 Stat. 922; 11 U. S. C. 205 (m)); or

(iii) Approved in an equity receivership proceeding in a court involving a corporation, as defined in section 106 (3) of the Bankruptcy Act, as amended (52 Stat. 883; 11 U. S. C. 506),

if the issuance, transfer, or exchange of securities, or the making, delivery or filing of instruments of transfer or conveyance, occurs within 5 years from the date of such confirmation or approval.

(2) Section 267 of the Bankruptcy Act (52 Stat. 903; 11 U. S. C. 667) also exempts from stamp tax the issuance, transfer, or exchange of securities, or the making or delivery of instruments of transfer under any plan of reorganization confirmed under chapter X of the Bankruptcy Act, as amended. However, by reason of the provisions of section 4382 (b) (1) the exemption conferred by section 267 has no application to the issuance, transfer, or exchange of securities, or the making, delivery, or filing of conveyances, which occurs after 5 years from the date of confirmation or approval of the plan of reorganization.

(e) *Orders of the Securities and Exchange Commission.* Section 4382 (b) (2) exempts from the taxes imposed by sections 4301, 4311, 4321, 4331, and 4361 the issuance, transfer, or exchange of securities, or the making or delivery of conveyances, to make effective any order of the Securities and Exchange Commission as defined in section 1083 (a), if (1) the order of the Securities and Exchange Commission in obedience to which such issuance, transfer, or exchange of securities or conveyance is made recites that such issuance, transfer, or exchange of

securities or conveyance is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935 (49 Stat. 820; 15 U. S. C. 79k (b)); (2) such order specifies and itemizes the securities and other property which are ordered to be issued, transferred, exchanged, or conveyed; and (3) such issuance, transfer, or exchange or conveyance is made in obedience to such order.

(f) *Alteration and modification of securities under the Interstate Commerce Act.* Section 20b of the Interstate Commerce Act (62 Stat. 162; 49 U. S. C. 20b) provides for alteration or modification of securities of a carrier as defined in section 20a (1). Paragraph (12) of section 20b makes sections 4301, 4311, 4321, 4331, and 4361, and any amendments thereto, unless specifically provided to the contrary, inapplicable to the issuance, transfer, or exchange of securities or the making or delivery of conveyances to make effective any alteration or modification effected pursuant to section 20b.

#### § 43.4383 Statutory provisions; liability for tax.

Sec. 4383. *Liability for tax.* The tax imposed by this chapter shall be paid by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes imposed by this chapter, or for whose use or benefit the same are made, signed, issued, or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax with respect to an instrument to which it is a party, and affixing of stamps thereby shall not be deemed payment for the tax, which may be collected by assessment from any other party liable therefor.

#### § 43.4383-1 Liability for tax.

(a) The tax is payable by any of the parties (except the United States or any agency or instrumentality thereof) to a taxable transaction. As, for example, in the case of the transfer of stock, the liability therefor is imposed upon the transferor, the transferee, and the corporation whose stock is transferred (if there is a transfer of record).

(b) The parties to the transaction may agree among themselves as to which shall pay the tax, but such agreement does not relieve the others from their liability in the event it is not carried out. No provisions, by-laws, or rules, of any exchange, and no custom, shall exempt any person from payment of the tax imposed.

(c) Where a state or a political subdivision thereof, acting in its governmental capacity, is a party to a taxable transaction, under chapter 34 of the Code, the transaction will not be exempt from the documentary stamp tax merely by reason of the governmental character of one of the parties. The legal incidence of the tax in such a case rests upon the other party to the transaction. However, if in a taxable transaction with a private party, a State or political subdivision thereof is acting in its proprietary function, both parties will be liable for the tax. Where all parties to a transaction are States or political subdivisions thereof, acting in their governmental capacity, no tax shall be imposed.

## Subpart J—Administrative Provisions Applicable to Documentary Stamp Taxes

### § 43.6001 Statutory provisions; notice or regulations requiring records, statements, and special returns.

SEC. 6001. *Notice or regulations requiring records, statements, and special returns.* Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

### § 43.6001-1 Records of sales and transfers of stock.

(a) *Brokers, dealers, etc.* All persons who are wholly or partly engaged in the business of buying, selling, or transferring stock, either at public or private sale, whether or not they are members of an exchange, including persons engaged in transactions known as "matched", "on-order", "pass-outs", or "give-ups", or transactions which are settled directly between the seller and buyer or which are cleared or adjusted through a clearing house or otherwise, or persons (other than those described in paragraph (b) of this section) engaged in accepting and procuring the transmission of orders for purchase or sale of shares of stock shall keep a record as to each transaction showing:

- (1) Date of transaction.
- (2) Name of customer for whom sold or loaned, or for whom bought or borrowed.
- (3) Name of party to whom sold or loaned, or from whom bought or borrowed.
- (4) Name of correspondent broker, if any.
- (5) Number of shares involved.
- (6) Name and description of stock.
- (7) Par value of stock; if no par value, so indicate.
- (8) Aggregate face value of the certificates involved.
- (9) Selling price of stock, per share.
- (10) Amount of tax paid.

(b) *Correspondent brokers.* Persons engaged in accepting and procuring the transmission of orders for the purchase or sale of stock to be executed at a brokerage office or at an exchange, board of trade, or similar place, shall keep a record as to each transaction showing:

- (1) Date of acceptance and transmission of order.
- (2) Name of person from whom accepted.
- (3) Name and address of person to whom transmitted.
- (4) Name and description of stock.
- (5) Par value of stock; if no par value, so indicate.
- (6) Number of shares involved.
- (7) Whether purchase or sale.
- (8) Selling price of stock, per share.
- (9) Date of execution of order.

(c) *Floor brokers, etc.* Brokers known as strictly "floor brokers", "two-

dollar men", or "room traders", whether their transactions are settled directly between seller and buyer, by "matched", "on-order", "pass-out", "scratch sale", or "give-up", or by any other kind of sale or purchase, or whether their transactions are cleared through a clearing house or otherwise, shall, in lieu of the record prescribed in subsection (a) of this section, keep a record as to each transaction showing:

- (1) Date of transaction.
- (2) Name of seller.
- (3) Name of purchaser.
- (4) Name and description of stock.
- (5) Number of shares involved.
- (6) Par value of stock; if no par value, so indicate.
- (7) Aggregate face value of the certificates involved.
- (8) Selling price of stock, per share.
- (9) Whether the transaction is "matched", "on-order", "pass-out", "scratch sale", or "give-up".
- (10) Name of person to whom "given-up".

(d) *General.* Persons keeping records as prescribed in this section may incorporate therein additional information for their own use, which should be entered, however, so as not to interfere with the recording of the information required by this section. These records must be kept in permanent form for a period of at least three years from the date of the transaction and must be available for ready inspection by internal revenue officers.

### § 43.6001-2 Rules applicable to clearing houses.

(a) *In general.* (1) If any person who negotiates sales or transfers of stock or certificates of indebtedness on a stock exchange appoints in writing the clearing house for the exchange as his agent for the purposes hereinafter specified, and on each business day furnishes to such clearing house a written report, statement, or sheet making a full disclosure of all transactions, both clearable and nonclearable, of the preceding business day in stocks or certificates of indebtedness that are listed or permitted to be dealt in by such member on such exchange, and also showing in which transactions, if any, certificates of indebtedness were loaned, borrowed, or returned, then in that event such clearing house may affix to such report, statement, or sheet, and cancel the stamps required for each transaction. The affixing and canceling of such stamps by the clearing house shall be held to be the act of the person making the sale, agreement to sell, memorandum of sale, delivery or transfer, as the case may be. If the person filing the report, statement, or sheet and the clearing house so elect, such person may affix and cancel the stamps before delivering such report, statement, or sheet to the clearing house; but such clearing house shall not accept the stamped report, statement, or sheet unless all stamps required to be affixed are attached thereto and properly canceled.

(2) The reports, statements, or sheets submitted to the clearing house shall in respect of each transaction show the date thereof, the names of the parties

to the transaction, the amount and description of the stock or certificates of indebtedness traded in. The information with respect to more than one transaction may be entered upon one report, statement, or sheet. No settlement of differences or other dealings between members shall be permitted that will interfere with the full disclosure of each transaction.

(3) The report, statement, or sheet submitted to the clearing house does not relieve the seller from making and delivering to the buyer the bill or memorandum required by § 43.4321-4 in the case of stock and § 43.4331-4 in the case of certificates of indebtedness. However, where the stamps are affixed to the report, statement, or sheet submitted to the clearing house, under either of the methods permitted by this section, the bill or memorandum shall, in lieu of stamps, bear an endorsement substantially in the following form:

It is hereby certified that the requisite Federal stamps on this transaction have been affixed to clearing-house sheet dated \_\_\_\_\_, and filed with the \_\_\_\_\_ Stock Exchange Clearing House.

(Member \_\_\_\_\_ Stock Exchange)

(4) Whenever any clearing house carries upon its sheets or records information or reports of transactions showing the transfer by one of its members of an account of a customer without change of ownership of the securities of the customer, there shall be kept by the members involved in the transaction a record showing the particulars of such transaction.

(b) *Alternative rules applicable to clearing houses.* A member of a securities exchange which is registered with the Securities and Exchange Commission as a national securities exchange may appoint in writing the clearing house for such exchange as his agent for the purpose of affixing the stamps required in respect of his transactions in stock or certificates of indebtedness. The privilege granted by this paragraph may be exercised only upon compliance with the following conditions:

(1) The member shall authorize and require the clearing house to affix the requisite stamps in respect of all transactions in stock or certificates of indebtedness, including rights to subscribe for or to receive stock, arising in the conduct of his business irrespective of whether the stock or certificates of indebtedness are listed or unlisted, whether the transactions are clearable or not, and including transactions involving loans or borrowings of certificates of indebtedness and over-the-counter sales.

(2) The member shall make a daily report to the clearing house for each business day showing the total amount of tax payable on all his business transactions as specified in subparagraph (1) of this paragraph. The report shall be filed with the clearing house on the day on which the transactions covered thereby are due for settlement (blotter date).

(3) The member shall maintain complete and adequate daily records, such as a blotter or similar book of original entry, of all transactions in stock or cer-

tificates of indebtedness as specified in subparagraph (1) of this paragraph, whether the transaction is taxable or not. In the case of taxable transactions, the daily record shall show the amount of tax payable in respect of each transaction. In the case of nontaxable transactions, the daily record shall disclose the basis on which exemption from the tax is claimed. Such daily records shall be kept in permanent form for a period of at least three years from the date of the transaction, and must be available for ready inspection by internal revenue officers.

(4) The clearing house shall, on the day of receiving the report specified in subparagraph (2) of this paragraph, affix to the report and cancel documentary stamps aggregating in value the total amount of tax shown on the report. In lieu of affixing stamps to the report submitted by each member who may have elected to exercise the privilege granted by this paragraph, the clearing house may prepare a daily summary statement showing the name of, and the total tax reported by, each such member, and affix to such summary statement and cancel documentary stamps aggregating in value the grand total of the amounts of tax reported by all such members. The daily reports received from its members and the daily summary statement of the total tax shown on such reports (if one is made) shall be kept in permanent form by the clearing house for a period of at least 3 years from the date thereof, and must be available for ready inspection by internal revenue officers. After the termination of such period, the daily reports and the summary statement may be destroyed by the clearing house, but only in the presence of an internal revenue officer.

(5) The member shall make and deliver to the buyer the bill or memorandum required by § 43.4321-4 in the case of stock and by § 43.4331-4 in the case of certificates of indebtedness, except that in lieu of affixing stamps to such bill or memorandum, the member shall make an endorsement on the bill or memorandum substantially in the following form:

It is hereby certified that the Federal stamp tax applicable to this transaction has been paid through the \_\_\_\_\_

(Insert name of clearing house)  
on our behalf.

(Member \_\_\_\_\_ Stock Exchange)

If so desired, the member may also make a similar endorsement on the certificates of stock or certificates of indebtedness covered by the bill or memorandum. In that event, the endorsement shall be in substantially the following form:

It is hereby certified that the Federal stamp tax applicable to the transfer of \_\_\_\_\_ shares of this certificate (or applicable to the transfer of this certificate of indebtedness) has been paid through \_\_\_\_\_

(Insert name of clearing house)  
on our behalf.

(Date) (Member \_\_\_\_\_ Stock Exchange)

The endorsement (including a facsimile signature of the member) may be made

on the bill or memorandum and on the accompanying certificate of stock or certificates of indebtedness by a hand-stamped impression, if (i) the hand-stamp is held at all times in the custody of the person authorized to make such impression, and (ii) the records of the member contain sufficient information to establish the identity of the person so authorized.

#### § 43.6001-3 Records with respect to foreign insurance policies.

(a) No return or statement showing a list of policies or other instruments subject to the tax imposed by section 4371 is required from any person to or for whom, or in whose name, such policy or other instrument is issued, or from the solicitor or broker acting directly or indirectly for or on behalf of such person. However, each person, solicitor, or broker, accepting, placing, soliciting, or making, directly or indirectly, or paying or receiving compensation with respect to, a policy or other instrument subject to the tax imposed by section 4371 shall keep a record of such policy or other instrument for a period of at least three years from the date of issuance thereof and shall be prepared to furnish full information to the district director at any time upon demand.

(b) The person having control or possession of a policy of insurance, or reinsurance, or other instrument to which documentary stamps must be affixed shall retain such instrument for at least 3 years from the date of issuance thereof to enable internal revenue officers to ascertain whether the requisite stamps have been affixed and canceled.

#### § 43.6001-4 Registration of brokers, exchanges, nominees, etc.

(a) *Registration of brokers, exchanges, etc.*—(1) *Requirements of registration.* Every person engaged, in whole or in part, in any of the following businesses or activities shall file a statement for registration with the district director for each district in which such business or activity is conducted:

(i) Negotiating, making, or recording sales or transfers of stock, certificates of indebtedness, rights, or warrants;

(ii) Conducting or transacting a stock or bond brokerage business;

(iii) Accepting or procuring the transmission of orders for the purchase or sale or transfer of stock, certificates of indebtedness, rights, or warrants to be executed at a stock or bond brokerage office or an exchange or similar place;

(iv) Transferring stock, certificates of indebtedness, rights, or warrants, other than their own;

(v) Conducting an exchange or clearing house, or clearing association, for the clearing, adjusting, and settling of transactions made on exchanges or similar places. In case an exchange has a department connected therewith engaged in clearing, adjusting, and settling transactions made thereon, a statement shall be made setting forth the names and addresses of the superintendent and secretary of the clearing house department or committee.

(2) *Statement to be filed.* (i) The statement shall be on Form 741, which is

procurable from district directors. The statement shall set forth specifically the character of the business, the name under which it is operated, and its exact location. A concern having branches or agencies shall file a statement in the district in which its principal office is located, showing the address of each branch office or agency and the name of the manager or agent in charge thereof. A separate statement shall also be filed in each of the other districts in which branches or agencies are maintained. The data shown in a statement covering a branch or agency shall relate to such branch or agency rather than to the principal office. The statement shall show the name and residence address of each member or representative holding membership in an exchange and the name of the exchange. If a license has been procured under the laws of any State or under any provision of Federal law, the date of the license and the place of issuance shall be shown. Upon registration the district director shall issue a certificate of registration as provided in paragraph (c) of this section.

(ii) In the case of a partnership, the statement shall be signed by one of the partners and shall show the name and residence address of each member engaged in the business.

(iii) In the case of a corporation or association, including an exchange or clearing house, the statement shall be signed by the chief officer or secretary and shall show the names and residence addresses of the officers of the corporation or association. In the case of a corporation, the statement shall show the date and place of incorporation. In the case of an exchange or clearing house, the name and residence address of the superintendent shall be shown. A list of the members and their residence addresses and a copy of the constitution, charter, or agreement of association and of the by-laws, rules, and regulations shall be filed with the statement. A copy of each amendment shall be filed as and when adopted.

(iv) If there is an addition to the membership after a statement has been filed, an additional statement shall be filed showing the name and residence address of the additional member.

(3) *Business suspended or moved.* In case a person registered as required herein suspends or closes his business, or moves it to another district, he shall notify the district director to that effect, showing the date of suspension, closing, or removal, and shall return the certificate of registration to the district director.

(b) *Registration of nominee.* (1) Any person conducting a stock brokerage business, who has registered with the district director as provided in paragraph (a) of this section, may appoint some person to act as his nominee in holding stock on his behalf. Any person acting in the capacity of a custodian within the contemplation of the exemption provided in section 4342 (2) may appoint some person to act as his nominee in holding stocks or certificates of indebtedness on his behalf. Any corporation may appoint

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some person to act as its nominee in holding stock on its behalf.

(2) The name of the person appointed as nominee of a broker, custodian, or corporation shall be registered with the district director for the district in which the principal office of the broker, custodian, or corporation is located. Substitution of a nominee may be effected by likewise registering the name of the successor nominee. No special form is prescribed for use in registering a nominee. Upon registration the district director shall issue a certificate of registration as provided in paragraph (c) of this section.

(c) *Certificate of registration*—(1) *Brokers, exchanges, etc.* Upon registration of a person engaged in any of the businesses specified in paragraph (a) (1) of this section, the district director shall issue to such person a certificate of registration which shall be signed by the district director and shall set forth the date of issue, the name of the person conducting the business, and the nature of the business for which the certificate is issued. Such certificate shall be kept at the place of business located within the district of the district director by whom the certificate is issued.

(2) *Nominee.* Upon registration of any person as a nominee of a broker, custodian, or corporation, the district director shall issue to the broker, custodian, or corporation a certificate of registration signed by him and setting forth the date of issue, the name of the person registered as nominee, and the name of the broker, custodian, or corporation on whose behalf the nominee is registered. Such certificate shall be kept at the principal place of business of the broker, custodian, or corporation to whom the certificate is issued.

(3) *Inspection.* The certificate of registration issued under subparagraph (1) or subparagraph (2) of this paragraph shall be held available for ready inspection by internal revenue officers.

#### § 43.6001-5 General requirements with respect to records and returns.

For general provisions relating to records and returns, see the Regulations on Procedure and Administration (Part 301 of this chapter).

#### § 43.6802 Statutory provisions; supply and distribution.

SEC. 6802. *Supply and distribution.* The Secretary or his delegate shall furnish, without prepayment, to—

(1) *Postmaster General.* The Postmaster General a suitable quantity of adhesive stamps (other than the stamps on playing cards), coupons, tickets, or such other devices as may be prescribed by the Secretary or his delegate pursuant to section 6302 (b) or this chapter, to be distributed to, and kept on sale by, the various postmasters in the United States in all post offices of the first and second classes, and such post offices of the third and fourth classes as—

(A) Are located in county seats, or  
(B) Are certified by the Secretary to the Postmaster General as necessary;

(2) *Designated depository of the United States.* Any designated depository of the United States a suitable quantity of adhesive stamps to be kept on sale by such designated depository;

(3) *State agents.* Any person who is—  
(A) Duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and

(B) Designated by the Secretary or his delegate for the purpose, a suitable quantity of such adhesive stamps as are required by section 4301, to be kept on sale by such person.

#### § 43.6802-1 Where stamps may be purchased and where requisition forms for the purchase of such stamps may be obtained and filed.

(a) *Where stamps may be purchased.* Documentary stamps may be purchased from (1) district directors and other duly authorized officials; (2) postmasters in all post offices of the first and second classes and such post offices of the third and fourth class as are located in county seats; (3) designated depositories of the United States (see section 6802 (2) (§ 43.6802 (2))); and (4) State agents designated under paragraph (3) of section 6802 (§ 43.6802).

(b) *Requisitions.* Requisitions for the purchase of documentary stamps shall be made on Form 427. Copies of these forms may be procured from any district director. A designated United States depository shall make sales only upon receipt of a requisition on Form 427. For records to be kept of sales, see the Regulations on Procedure and Administration (Part 301 of this chapter).

(c) *Use or resale of unused documentary stamps.* Unused documentary stamps may be used at any time in payment of any tax imposed by section 4301, 4311, 4321, 4331, 4361 or 4371, or may be resold by the owner at any time. For redemption of stamps see section 6805 (§ 43.6805).

#### § 43.6804 Statutory provisions; attachment and cancellation.

SEC. 6804. *Attachment and cancellation.* Except as otherwise expressly provided in this title, the stamps referred to in section 6801 shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Secretary or his delegate may prescribe by rules or regulations.

#### § 43.6804-1 Stamps to be used and denominations thereof.

(a) *Documentary stamps only to be used.* Documentary stamps only shall be used in payment of the stamp taxes imposed by sections 4301, 4311, 4321, 4331, 4361, and 4371. Ordinary postage stamps shall not be used in payment of documentary stamp taxes.

(b) *Use of stamps.* Wherever feasible, a stamp tax shall be paid by the use of a single stamp. If a stamp of a denomination equal to the tax is not readily available, the smallest practical number of stamps shall be used. A stamp affixed to an instrument and canceled cannot lawfully be removed therefrom and affixed to another instrument requiring a stamp (see section 7208 (§ 43.7208), relating to penalties).

(c) *Denominations of documentary stamps.* Documentary stamps are issued in the following denominations: 1 cent, 2 cents, 3 cents, 4 cents, 5 cents, 8 cents, 10 cents, 20 cents, 25 cents, 40 cents, 50 cents, 55 cents, 80 cents, \$1, \$1.10, \$1.65, \$2, \$2.20, \$2.75, \$3, \$3.30, \$4, \$5, \$10, \$20, \$30, \$50, \$60, \$100, \$500, \$1,000, \$2,500, \$5,000, and \$10,000.

#### § 43.6804-2 Cancellation of stamps.

A person using or affixing a stamp shall cancel it and so deface it as to render it unfit for reuse by marking it with his initials and the day, month, and year when the affixing occurs. (See section 7271 (1) (§ 43.7271), relating to penalties.) Such marking shall be made by writing or stamping in ink or by perforating with a machine or punch. In addition, unless a stamp of the value of 50 cents or more is canceled by perforation, three parallel incisions shall be made lengthwise through the stamp with some sharp instrument after the stamp has been affixed. However, the stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness.

#### § 43.6805 Statutory provisions; redemption of stamps.

SEC. 6805. *Redemption of stamps*—(a) *Authorization.* The Secretary or his delegate, subject to regulations prescribed by him, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of any internal revenue law, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected.

(b) *Method and conditions of allowance.* Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Secretary or his delegate, or until satisfactory proof has been made showing the reason why the same cannot be returned; or, if so required by the Secretary or his delegate, when the person presenting the same cannot satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

(c) *Time for filing claims.* No claim for the redemption of, or allowance for, stamps shall be allowed unless presented within 3 years after the purchase of such stamps from the Government.

(d) *Finality of decisions.* The findings of fact in and the decision of the Secretary or his delegate upon the merits of any claim presented under or authorized by this section shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

#### § 43.7208 Statutory provisions; offenses relating to stamps.

SEC. 7208. *Offenses relating to stamps.* Any person who—

(1) *Counterfeiting.* With intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed under authority of this title for the collection or payment of any tax imposed by this title, or sells, lends, or has in his possession any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device; or

(2) *Mutilation or removal.* Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing,

package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title; or

(3) *Use of mutilated, insufficient, or counterfeited stamps.* Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title.

(A) Any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or

(B) Any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or

(C) Any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article; or

(4) *Reuse of stamps.*

(A) *Preparation for reuse.* Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has already been used; or

(B) *Trafficking.* Knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same; or

(C) *Possession.* Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article; or

(5) *Emptied stamped packages.* Commits the offense described in section 7271 (relating to disposal and receipt of stamped packages) with intent to defraud the revenue, or to defraud any person; shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

#### § 43.7209 Statutory provisions; unauthorized use or sale of stamps.

SEC. 7209. *Unauthorized use or sale of stamps.* Any person who buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device prescribed by the Secretary or his delegate under this title for the collection or payment of any tax imposed by this title, shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned not more than 6 months, or both.

#### § 43.7209-1 Use or resale of unused stamps.

For provision with respect to the use or resale of unused stamps see § 43.6802-1 (c).

#### § 43.7270 Statutory provisions; insurance policies.

SEC. 7270. *Insurance policies.* Any person who fails to comply with the requirements of section 4374 (relating to the affixing of stamps on insurance policies, etc.), with intent to evade the tax shall, in addition to other penalties provide therefor, pay a fine of double the amount of the tax.

#### § 43.7271 Statutory provisions; penalties for offenses relating to stamps.

SEC. 7271. *Penalties for offenses relating to stamps.* Any person who with respect to any tax payable by stamps—

(1) *Failure to attach or cancel stamps, etc.* Fails to comply with rules or regulations prescribed pursuant to section 6804 (relating to attachment, cancellation, etc., of stamps),

unless such failure is shown to be due to reasonable cause and not willful neglect; or

(3) *Instruments.* Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; or

shall be liable for each such offense to a penalty of \$50.

#### § 43.7271-1 Cross references.

For other provisions relating to penalties, see the applicable sections of the Regulations on Procedure and Administration (Part 301 of this chapter).

#### § 43.7701 Statutory provisions; definitions.

SEC. 7701. *Definitions.* (a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof—

(1) *Person.* The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) *Partnership and partner.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) *Corporation.* The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) *Domestic.* The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.

(5) *Foreign.* The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) *Fiduciary.* The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) *Stock.* The term "stock" includes shares in an association, joint-stock company, or insurance company.

(9) *United States.* The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(10) *State.* The term "State" shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) *Secretary.* The term "Secretary" means the Secretary of the Treasury.

(12) *Delegate.* The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.

(13) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(19) *Domestic building and loan association.* The term "domestic building and loan association" means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association, substantially all the business of which is confined to making loans to members.

(b) *Includes and including.* The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(d) *Cross references.*—(1) *Other definitions.* For other definitions, see the following sections of Title 1 of the United States Code:

- (1) Singular as including plural, section 1.
- (2) Plural as including singular, section 1.
- (3) Masculine as including feminine, section 1.

#### § 43.7805 Statutory provisions; rules and regulations.

SEC. 7805. *Rules and regulations.*—(a) *Authorization.* Except where such authority is expressly given by this title to any person other than an officer or employee of the Treasury Department, the Secretary or his delegate shall prescribe all needful rules and regulations for the enforcement of this title, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary or his delegate may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect.

(c) *Preparation and distribution of regulations, forms, stamps, and other matters.* The Secretary or his delegate shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue.

#### § 43.7805-1 Promulgation of regulations.

In pursuance of section 7805 of the Internal Revenue Code of 1954, the foregoing regulations are hereby prescribed. (§ 43.0-3 relating to the scope of the regulations.)

[F. R. Doc. 59-239; Filed, Jan. 9, 1959; 8:47 a. m.]

## Title 30—MINERAL RESOURCES

### Chapter III—Office of Minerals Exploration, Department of the Interior

#### PART 301—REGULATIONS FOR OBTAINING FEDERAL ASSISTANCE IN FINANCING EXPLORATIONS FOR MINERAL RESERVES, EXCLUDING ORGANIC FUELS, IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS

##### Correction

In Federal Register Document 58-10535, published at page 9918 in the issue for Tuesday, December 23, 1958, § 301.7 should read as follows:



**§ 301.7 Criteria.**

The following factors will be considered and weighed in passing upon applications:

(a) The geologic probability of a significant discovery being made.

(b) The estimated cost of the exploration in relation to the size and grade of the potential deposit.

(c) The plan and method of conducting the exploration.

(d) The accessibility of the project area.

(e) The background and operating experience of the applicant.

(f) The applicant's title or right to possession of the property.

(g) The unavailability of funds from commercial sources on reasonable terms.

(h) Whether the applicant would normally undertake the exploration at his sole expense under current conditions or circumstances.

This device, generally licensed pursuant to § 30.21 (c) of 10 CFR, Part 30, has been manufactured and distributed pursuant to AEC license No. \_\_\_\_\_ by \_\_\_\_\_  
(Name of supplier)

(2) Persons who own, receive, acquire, possess or use a device pursuant to the general license contained in subparagraph (1) of this paragraph:

(i) Shall not transfer, abandon or dispose of the device, except by transfer to a person specifically licensed by the Commission to receive such device;

(ii) Shall assure that all labels affixed to the device at the time of receipt and bearing the statement, "Removal of this label is prohibited by regulations of the Atomic Energy Commission," are maintained thereon and shall comply with all instructions contained in such labels;

(iii) Shall have the device tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals; provided that devices containing only krypton need not be tested for leakage, and devices containing only tritium need not be tested for any purpose;

(iv) Shall have the tests required by subdivision (iii) of this subparagraph and all other services involving the radioactive material, its shielding and containment, performed by the supplier or other person holding a specific license to manufacture, install or service such devices.

(v) Shall maintain records of all tests performed on the devices as required under this section, including the dates and results of the tests and the names of the specific licensees conducting the tests;

(vi) Upon the occurrence of a failure of or damage, or any indication of a possible failure of or damage, to the shielding or containment of the radioactive material or the on-off mechanism or indicator, shall immediately suspend operation of the device until it has been repaired by the supplier or other person holding a specific license to manufacture, install or service such devices, or disposed of by transfer to a person specifically licensed to receive the byproduct material contained in the device; and

(vii) Shall be exempt from the requirements of Part 20 of this chapter, except that such persons shall comply with the provisions of §§ 20.402 and 20.403 of this chapter.

(3) The general license provided in this paragraph is subject to the provisions of §§ 30.32 to 30.72: *Provided*, That persons who possess byproduct material pursuant to this general license shall not export such byproduct material without a specific license from the Commission authorizing such export.

2. Add a new paragraph (f) in § 30.24 to read as follows:

(f) *Distribution of devices to persons generally licensed under § 30.21 (c).* An application for a specific license to distribute certain devices of the types enumerated in § 30.21 (c) to persons generally licensed under § 30.21 (c) will be approved if:

## PROPOSED RULE MAKING

### ATOMIC ENERGY COMMISSION

[ 10 CFR Part 30 ]

#### LICENSING OF BYPRODUCT MATERIAL

##### Notice of Proposed Rule Making

The following proposed amendment would incorporate in Part 30 a general license authorizing the possession and use under specified conditions of certain types of measuring, gauging or controlling devices containing byproduct material. Experience has indicated a need for a simplified procedure to allow users of such devices to possess and use byproduct material when contained in such devices without obtaining a specified license. The Commission will continue to exercise control over the manufacture and distribution of the devices through its specific licensing procedures. The proposed general license would be applicable only to devices which are manufactured, tested, and labeled in accordance with specifications contained in a specific license authorizing supply of such devices to generally licensed persons.

Each applicant for a specific license to supply to general licensees devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere would be required to furnish sufficient information to assure that, among other things, the device can be safely operated by persons not having any training in radiological protection and that under normal conditions of use no person would be likely to receive more than a limited specified radiation exposure. Furthermore, the specifically licensed supplier would be required to apply quality control procedures to assure that the device meets the required specifications. In most cases, testing of a prototype of the device will also be required prior to the issuance of a license authorizing distribution to general licensees. Specific licensees will be obliged to report to the Commission on all transfers of the devices to generally licensed persons; thereby enabling the Commission to make appropriate inspections of the use of the devices.

Under the proposed amendment the general licensees would be required to comply with certain restrictions which, in general would require that testing and servicing of the devices be accomplished by the manufacturer or other persons holding specific licenses. To assure that the general licensee is informed of the obligations imposed on him, the specifically licensed supplier will be required to furnish a copy of the general license provisions as contained in Part 30, "Licensing of Byproduct Material" to each generally licensed person to whom he transfers a device containing byproduct material.

Notice is hereby given that adoption of the following amendments is contemplated. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendments should send them to the United States Atomic Energy Commission, Washington 25, D. C., Attention: Director, Division of Licensing and Regulation, within 30 days after publication of this notice in the FEDERAL REGISTER.

1. Add a new paragraph (c) to § 30.21 to read as follows:

(c) (1) A general license is hereby issued to own, receive, acquire, possess and use byproduct material when contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition or for producing light or an ionized atmosphere, when such devices are manufactured in accordance with the specifications contained in a specific license issued to the supplier pursuant to this part; provided that:

(i) The general license contained in this paragraph shall apply only to devices distributed under and in accordance with a specific license which states that such devices when manufactured pursuant to the terms of the specific license may be distributed by the licensee pursuant to this paragraph;

(ii) That such devices are labeled in accordance with the provisions of the specific license which authorizes the distribution of the devices; and

(iii) That the device bear a label containing the following statement:



(1) The applicant satisfies the general requirements specified in § 30.23; and  
 (2) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labelling, proposed uses and potential hazards of the device to provide reasonable assurance that:

(i) The byproduct material contained in the device will not be lost;

(ii) That no person would receive a radiation exposure to a major portion of his body in excess of 0.5 rem in a year under ordinary circumstances of use;

(iii) The device can be safely operated by persons not having training in radiological protection; and

(iv) The byproduct material within the device would not be accessible to unauthorized persons.

(3) In describing the label or labels and contents thereon to be affixed to the device, the applicant should separately indicate those instructions and precautions which are necessary to assure safe operation of the device. Such instructions and precautions must be contained on labels bearing the statement, "Removal of this label prohibited by regulations of the Atomic Energy Commission."

3. Add a new paragraph (e) in § 30.32 to read as follows:

(e) Each license authorized under § 30.24 (f) to distribute certain devices to generally licensed persons:

(1) Shall report to the Director, Division of Licensing and Regulation all transfers of such devices to persons generally licensed under § 30.21 (c). Such report shall identify each general licensee by name and address, the type of device transferred, and the quantity and type of byproduct material contained in the device. The report shall be submitted within 30 days after the end of each calendar quarter in which such a device is transferred to generally licensed persons; and

(2) Shall furnish to each general licensee to whom he transfers such device a copy of the general license contained in § 30.21 (c).

Dated at Germantown, Md., this 31st day of December 1958.

For the Atomic Energy Commission.

A. R. LUEDECKE,  
General Manager.

[F. R. Doc. 59-229; Filed, Jan. 9, 1959; 8:45 a. m.]

## DEPARTMENT OF THE TREASURY

Internal Revenue Service

[ 26 CFR (1954) Part 1 ]

**INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953**

**Hearing Regarding Adjustments Required by Changes in Method of Accounting**

Proposed regulations under section 481 of the Internal Revenue Code of

1954, relating to adjustments required by changes in method of accounting, were published in the issue of the *FEDERAL REGISTER* for Saturday, December 6, 1958. In response to this notice of proposed rule making, one or more interested parties have submitted comments and suggestions pertaining to the proposed regulations, and have requested an opportunity to comment orally at a public hearing on the proposed regulations.

Notice is hereby given that a public hearing on the proposed regulations will be held on Thursday, January 22, 1959, at 10:00 a. m., e. s. t., in Room 3303, Internal Revenue Building, 12th and Constitution Avenue NW., Washington, D. C. All interested persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D. C., at least three days prior to the date fixed for the hearing.

[SEAL]

MAURICE LEWIS,  
Director,  
Technical Planning Division,  
Internal Revenue Service.

[F. R. Doc. 59-250; Filed, Jan. 9, 1959; 8:49 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[ 17 CFR Parts 230, 240, 250, 270 ]

**GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND INVESTMENT COMPANY ACT OF 1940**

**Notice of Intention to Announce Interpretation of Administrative Policy (Accounting Regulation S-X)**

Notice is hereby given that the Securities and Exchange Commission has under consideration the announcement of an interpretation of administrative policy on financial statements regarding balance sheet treatment of credits equivalent to the reductions in income taxes. In view of the importance of the amounts involved, any interested person may on or before January 31, 1959, file in triplicate with the Secretary of the Commission written views and comments to be considered in this matter. Except where it is requested that such views and comments not be disclosed, they will be considered available for public inspection.

The proposed announcement follows: *Interpretation of Administrative policy on financial statements regarding balance sheet treatment of credit equivalent to reduction of income taxes.* Notice is hereby given that any financial statement which designates as earned surplus or its equivalent or includes as a part of equity capital (even though accompanied by words of limitation such as "restricted" or "appropriated") the accumulated credit arising from accounting for reductions in income taxes for various

items including those under sections 167 and 168 of the Internal Revenue Code of 1954, filed with this Commission dated as of December 31, 1958, or thereafter, will pursuant to the administrative policy on financial statements announced in Accounting Series Release No. 4, be presumed by this Commission "to be misleading or inaccurate despite disclosure contained in the certificate of the accountant or in footnotes to the statements provided the matters involved are material."

The Commission considers that the action thus taken is necessary or appropriate in the public interest or for the protection of investors and is consistent with the intent of Congress, as expressed in section 167 (liberalized depreciation) and section 168 (accelerated amortization) of the Internal Revenue Code of 1954. The effect of these sections is to permit the tax-free recovery from operations of capital invested in plant at a faster rate than would be possible by depreciation methods previously permitted for income tax purposes.<sup>1</sup> The cash working capital is thus temporarily increased by an amount equal to the current tax reduction resulting from the excess depreciation deductions taken for tax purposes in earlier years. This procedure will result in reduced depreciation deductions in future years for tax purposes on the related plant with a resulting increase in income taxes over the amount of taxes which otherwise would be payable.

In order that the net income from operations of a corporation which deducts liberalized depreciation or accelerated amortization for tax purposes but only normal depreciation in its books of account be not overstated in the earlier years and understated in the later years, it is necessary, except in rare cases, to charge current income with an amount equal to the tax reduction.<sup>2</sup> The exception to this procedure is found in those cases described in paragraph 8 of Accounting Research Bulletin No. 44 (Revised), Declining-Balance Depreciation, issued in July 1958 by the Committee on Accounting Procedure of the American Institute of Certified Public Accountants.<sup>3</sup> The contra credit should

<sup>1</sup> That this was the intent of these sections of the Code is disclosed by the Report of the House Committee on Ways and Means and the Report of the Senate Committee on Finance. See H. Rep. No. 1337 (83d Cong., 2d Sess.), p. 24 and Sen. Rep. No. 1622 (83d Cong., 2d Sess.), p. 26.

<sup>2</sup> This charge to income is not necessary where the corporation treats the related tax effect in its books of account as additional amortization or depreciation applicable to the asset in question in recognition of the loss of future deductibility for income tax purposes, or charges liberalized depreciation or accelerated amortization in its books of account.

<sup>3</sup> Many regulatory authorities permit recognition of deferred income taxes for accounting and/or rate-making purposes, whereas some do not. The Committee believes that they should permit the recognition of deferred income taxes for both purposes. However, where charges for deferred income taxes are not allowed for rate-making purposes, accounting recognition need not be given to the deferment of taxes if

be accumulated in an appropriately captioned balance sheet account and returned to income proportionately in later years when the depreciation then allowed for tax purposes is less than the normal depreciation charged to income in the books of account.

It is not contemplated that the portion returned to income will offset exactly the actual tax to be paid in future years, as it is made only for the purpose of allocating to future periods the effect on income of the tax reduction taken. These tax reductions therefore enter into the determination of income and to the increase of equity capital only through the passage of time.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

DECEMBER 30, 1958.

[F. R. Doc. 59-243; Filed, Jan. 9, 1959;  
8:47 a. m.]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[7 CFR Parts 927, 996, 1019]

[Docket Nos. AO-71-A35, AO-203-A-9,  
AO 305]

### HANDLING OF MILK IN NEW YORK- NEW JERSEY; SPRINGFIELD, MAS- SACHUSETTS; AND CONNECTICUT (NEW PROGRAM) MARKETING AREAS

#### Extension of Time for Filing Exceptions to Recommended Decision

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the New York-New Jersey order and to the proposed marketing agreement and order for the Connecticut marketing area which was issued December 17, 1958 (23 F. R. 9847, F. R. Doc. 58-10499) is hereby extended to January 16, 1959. Such exceptions must be filed with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture,

it may reasonably be expected that increased future income taxes, resulting from the earlier deduction of declining-balance depreciation for income tax purposes only, will be allowed in future rate determinations.

\*Companies required to comply with a uniform system of accounts of the Federal Power Commission shall use the balance sheet captions and classification of deferred taxes prescribed by that Commission in its Orders No. 203 and 204, Dockets No. R-158 and R-159 respectively, issued May 29, 1958. Other companies may use the same or other appropriate captions and classification provided they avoid any implication that the credit balance in question is a part of earned surplus or of equity capital.

Washington 25, D. C., not later than the close of business on January 16, 1959.

Dated: January 6, 1959.

[SEAL] ROY W. LENNARTSON,  
Deputy Administrator.

[F. R. Doc. 59-240; Filed, Jan. 9, 1959;  
8:47 a. m.]

## NOTICES

### DEPARTMENT OF THE INTERIOR

#### Bureau of Indian Affairs

[Bureau Order 567, Amdt. 4]

#### SEMINOLE TRIBE OF FLORIDA, INC.

#### Redelegation of Authority. With Respect to Loan Agreements and Modifications of Loan Agreements

JANUARY 6, 1959.

Bureau Order 567 (20 F. R. 314), as amended (21 F. R. 546; 22 F. R. 10674; 23 F. R. 5397), is further amended by adding a new heading and two new sections under Part 3 to read as follows:

#### FUNCTIONS RELATING TO CREDIT MATTERS

SEC. 2.120 *Loan agreements by Seminole Tribe of Florida, Inc.* The approval of applications for loans made pursuant to 25 CFR Part 91, subject to the availability of funds, where the total indebtedness of the applicant to the Corporation does not exceed:

(a) \$500 for a one-year course of studies or \$2,000 for a four-year course of studies, in the case of educational loans.

(b) \$200 in the case of short-term loans.

(c) \$2,500 in the case of loans other than educational or short-term loans, exclusive of any indebtedness for short-term loans.

SEC. 2.127 *Modifications of loan agreements by Seminole Tribe of Florida, Inc.* The approval of modifications of loan agreements pursuant to 25 CFR Part 91 where the total indebtedness of the borrower to the Corporation does not exceed:

(a) \$500 for a one-year course of studies or \$2,000 for a four-year course of studies, in the case of educational loans.

(b) \$2,500 in the case of loans other than educational loans, exclusive of any indebtedness for short-term loans.

GLENN L. EMMONS,  
Commissioner.

[F. R. Doc. 59-231; Filed, Jan. 9, 1959;  
8:45 a. m.]

#### Office of the Secretary

[Order 2508, Amdt. 27]

#### BUREAU OF INDIAN AFFAIRS

#### Delegation of Authority

JANUARY 6, 1959.

Section 30 of Order No. 2508, as amended (20 F. R. 3834, 5106; 21 F. R.

7027, 7655), is further amended by addition of two new subparagraphs to read as follows:

#### SEC. 30 *Authority under specific acts.*

(a) \* \* \*

(9) The act of August 18, 1958 (Pub. Law 85-671; 72 Stat. 619).

(b) \* \* \*

(5) The final disposition of objections made by Indians to plans for the distribution of assets under the act of August 18, 1958 (Pub. Law 85-671; 72 Stat. 619).

ELMER F. BENNETT,  
Acting Secretary of the Interior.

[F. R. Doc. 59-233; Filed, Jan. 9, 1959;  
8:45 a. m.]

## DEPARTMENT OF COMMERCE

### Office of the Secretary

EVERETT MORSS, JR.

#### Report of Appointment and Statement of Financial Interests

##### *Report of Appointment*

1. Name of appointee: Everett Morss, Jr.

2. Employing agency: Department of Commerce, Business and Defense Services Administration.

3. Date of appointment: December 16, 1958.

4. Title of position: Consultant (Advisor to Director).

5. Name of private employer: Simplex Wire & Cable Co., 79 Sidney Street, Cambridge 39, Mass.

CARLTON HAYWARD,  
Director of Personnel.

DECEMBER 3, 1958.

##### *Statement of Financial Interests*

6. Names of any corporations of which the appointee is an officer or director or within 60 days preceding appointment has been an officer or director, or in which the appointee owns or within 60 days preceding appointment has owned any stocks, bonds, or other financial interests; any partnerships in which the appointee is, or within 60 days preceding appointment was, a partner; and any other businesses in which the appointee owns, or within 60 days preceding appointment has owned, any similar interest.

Callexico California Housing Authority.  
Connecticut Expressway Rev. and Motor Fuel.  
Dartmouth Massachusetts.  
Fall River Massachusetts Housing Authority.  
Georgia Rural Roads Authority Series 1957B.  
Lincoln-Sudbury Regional School District  
Massachusetts  
Longmeadow Massachusetts.  
Lowell Massachusetts Housing Authority.  
Maryland State Roads Commission.  
Massachusetts.  
Michigan Highway 1957 Revenue.  
Newport Rhode Island Housing Authority.  
Ohio Thoroughfare.  
Pennsylvania General State Authority Eighth Series.  
Porto Rico Housing Authority.  
River Bank California Housing Authority.  
Springfield Massachusetts.  
American Can Company.  
Dow Chemical Company.  
E. I. DuPont de Nemours.

Caterpillar Tractor Company.  
Eastman Kodak Company.  
First National City Bank of New York,  
General Electric Company.  
Hartford Fire Insurance Company of Connecticut.  
Insurance Company of North America.  
International Business Machine Corporation,  
Merck and Company Incorporated.  
Phillips Petroleum Company.  
Pittsburgh Plate Glass Company.  
Simplex Wire and Cable Company.  
Standard Oil Company—New Jersey.  
Texas Company.  
Union Carbide Corporation.  
U. S. bonds.  
Bank deposits.

Dated: December 17, 1958.

EVERETT MORSS, Jr.

[F. R. Doc. 59-248; Filed, Jan. 9, 1959;  
8:48 a. m.]

CIVIL SERVICE COMMISSION

CERTAIN GEOLOGY POSITIONS IN  
ALASKA AND HAWAII

Notice of Increase in Minimum Rates  
of Pay

Under the provisions of section 803 of the Classification Act of 1949, as amended (68 Stat. 1106; 5 U. S. C. 1133) pursuant to 5 CFR 25.103, '25.105, the Commission has increased the minimum rate of pay for positions in the Geology Series, GS-1350-0, in grades GS-5 through GS-14, as indicated below.

The increases will become effective on the first day of the second pay period which begins after January 8, 1959, and will apply to these positions in the Territory of Hawaii and in Alaska.

The minimum rates of pay have been increased as follows:

GS-5 from \$4,040 to \$4,490 (fourth step)  
GS-6 from \$4,490 to \$4,940 (fourth step)  
GS-7 from \$4,980 to \$5,430 (fourth step)  
GS-8 from \$5,470 to \$5,920 (fourth step)  
GS-9 from \$5,985 to \$6,285 (third step)  
GS-10 from \$6,505 to \$6,805 (third step)  
GS-11 from \$7,030 to \$7,510 (third step)  
GS-12 from \$8,330 to \$8,810 (third step)  
GS-13 from \$9,890 to \$10,130 (second step)  
GS-14 from \$11,355 to \$11,595 (second step)

Special minimum rates of pay already apply to these positions throughout continental United States and in foreign countries.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] WM. C. HULL,  
Executive Assistant.

[F. R. Doc. 59-247; Filed, Jan. 9, 1959;  
8:48 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. SR-2192]

WILLIAM PETER CAREY SAFETY  
ENFORCEMENT

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958 that oral argument in the above-entitled proceeding is assigned to be

held on January 21, 1959, at 10:00 a. m., e. s. t., in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Board. The respondent has been allotted 40 minutes and the Administrator 40 minutes to be presented in that order. The respondent may reserve one-quarter of his allotted time for rebuttal.

Dated at Washington, D. C., January 6, 1959.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F. R. Doc. 59-255; Filed, Jan. 9, 1959;  
8:49 a. m.]

[Docket No. 8569]

NEW YORK AIRWAYS CERTIFICATE  
RENEWAL CASE

Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding heretofore scheduled to be held on January 12, 1959, at New York City is postponed to January 26, 1959, 10:00 a. m., Room 129, U. S. Court House, Foley Square, New York City, New York, before Examiner Ferdinand D. Moran.

Dated at Washington, D. C., January 7, 1959.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F. R. Doc. 59-301; Filed, Jan. 9, 1959;  
9:07 a. m.]

FEDERAL AVIATION AGENCY

[Administrative Order 4]

CONTINUATION OF POLICIES, DETERMINATIONS, ORDERS, AND DELEGATIONS OF AUTHORITY OF THE  
CIVIL AERONAUTICS ADMINISTRATION

The purpose of this order is to provide an opportunity for the Bureau of Research and Development to evaluate the effect of Administrative Order No. 3 upon its operations and recommend any changes or special procedures and policies which may be required to meet its particular needs. It is to be understood that, generally speaking, Administrative Order No. 3 shall be made applicable at the earliest possible date and to the fullest extent practicable to the Bureau of Research and Development in the interest of having maximum uniformity of procedures and policies throughout the Agency.

The effective date of Administrative Order No. 3, only insofar as it would otherwise apply to the Bureau of Research and Development or its personnel, is hereby postponed on a temporary basis until further notice.

E. R. QUESADA,  
Administrator.

DECEMBER 31, 1958.

[F. R. Doc. 59-230; Filed, Jan. 9, 1959;  
8:45 a. m.]

INTERSTATE COMMERCE  
COMMISSION

[Notice 70]

MOTOR CARRIER TRANSFER  
PROCEEDINGS

JANUARY 7, 1959.

Synopses of orders entered pursuant to section 212 (b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 61494. By order of December 31, 1958, the Transfer Board approved the transfer to Garton's Express, Inc., Vineland, N. J., of a portion of certificate in No. MC 21269, issued February 21, 1956, to Albert Green, doing business as Green's Express, Vineland, N. J., authorizing the transportation of: *General commodities*, with the usual exceptions including household goods, between Ocean City, N. J., and Philadelphia, Pa. Jacob Polin, P. O. Box 317, Bala-Cynwyd, Pa., for applicants.

No. MC-FC 61568. By order of December 31, 1958, the Transfer Board approved the transfer to Joshua V. Stingley, doing business as J. V. Stingley, 332 West 17th Street, Crete, Nebr., of permit in No. MC 72437, issued July 5, 1941, to Rueben D. Aggen, 336 West 17th Street, Crete, Nebr., authorizing the transportation of: *Grain, grain products, cereals, seeds, feed, bags, and bagging* from Crete, Nebr., to specified points in Colorado.

No. MC-FC 61665. By order of December 30, 1958, the Transfer Board approved the transfer to Barry's Moving and Storage Co., Inc., of Certificate No. MC 47674, issued October 2, 1953, to Francis Roger Hurley, doing business as Jersey Seaboard Lines, authorizing the transportation of household goods, over irregular routes, between Spring Lake, N. J., and points within 25 miles of Spring Lake, on the one hand, and, on the other, points in New Jersey, New York, and Pennsylvania. George A. Olsen, 69 Tonnele Avenue, Jersey City 6, N. J., for applicants.

No. MC-FC 61677. By order of December 29, 1958, the Transfer Board approved the transfer to Albert N. Scott, Estelle E. Scott, and Richard L. Scott, doing business as Motor City Cartage Company, Detroit, Mich., of Permit No. MC 109242, issued February 2, 1950, to Albert N. Scott and Estelle E. Scott, doing business as Motor City Cartage Company, Detroit, Mich., authorizing the transportation of: *Fresh and cured*

meats, between Detroit, Mich., on the one hand, and, on the other, points and places in Michigan within 60 miles of Detroit. Transferee is also substituted as respondent in docket No. MC 109242 Sub 3. Wilhelmina Boersma, 2850 Penobscot Building, Detroit, Mich., for applicants.

No. MC-FC 61717. By order of December 30, 1958, the Transfer Board approved the transfer to Henry's Lumber Hauling, 9243 North Burrage Street, Portland, Oregon, of Certificate No. MC 112155, issued March 5, 1956, to Clayton S. Henry and Stanley E. Henry, a Partnership, doing business as Henry's Lumber Hauling, 9243 North Burrage Street, Portland, Oregon, authorizing the transportation of lumber, over irregular routes, from points in Clark and Cowlitz County, Wash., to Portland, Oreg.

No. MC-FC 61765. By order of December 31, 1958, the Transfer Board approved the transfer to Donald G. Vines, Middletown, California, of Certificate No. MC 6395, issued March 6, 1952, to Ellis J. Fields, doing business as Resort Freight Lines, Middletown, California, authorizing the transportation of general commodities, excluding household goods and other specified commodities, over a regular route between Calistoga, California, and Adams Springs, California. Oliver T. Northup, 1332 Lincoln Avenue, Calistoga, Calif., for applicants.

No. MC-FC 61772. By order of December 31, 1958, the Transfer Board approved the transfer to Massachusetts Trucking Corp., New York, N. Y., of Certificate No. MC 61019, issued July 18, 1956, to Fish Transport Company, Inc., New Bedford, Mass., authorizing the transportation of general commodities, excluding household goods and other specified commodities, from New York, N. Y., to New Bedford, Mass., fresh, frozen, smoked or salted fish, in barrels, boxes, or paper cartons, over regular routes, from Boston, Mass., to Philadelphia, Pa., fish (including shell fish), processed fish, fish livers, fish oils, and fish scrap, in containers, over regular and irregular routes, from points in Barnstable County, Mass., to Providence, R. I., and, over irregular routes, fish (including shell fish), processed fish, fish livers, fish oils, and fish scrap, from New Bedford, Fairhaven, and Fall River, Mass., to Providence and Pawtucket, R. I., points in New York, N. Y., Commercial Zone, and Philadelphia, Pa., empty fish containers, from the last-named destination points to New Bedford, Fairhaven, and Fall River, Mass., malt beverages in containers, and advertising matter used in connection with the sale or distribution of malt beverages, from Newark, N. J., to Providence and Pawtucket, R. I., and Fall River, Mass., and from Newark, N. J., and New York, N. Y., to New London and Hartford, Conn., and New Bedford, Taunton, and Brockton, Mass., with the return of rejected shipments of malt beverages and empty malt beverage containers, and cranberries, from points in Barnstable, Bristol, and Plymouth Coun-

ties, Mass., to points in the New York, N. Y., Commercial Zone. Kenneth B. Williams, 111 State Street, Boston 9, Mass., for applicants.

No. MC-FC 61785. By order of December 30, 1958, the Transfer Board approved the transfer to Frederick Thomas Clatterbuck, Harold Samuel Mauck and Joan Clatterbuck, a Partnership, doing business as Clatterbuck Horse Transportation, of Certificate No. MC 31361, issued June 28, 1949, to W. T. Clatterbuck, doing business as Clatterbuck Horse Vans, authorizing the transportation of show race horses, personal effects of attendants, and supplies and equipment used in the care or exhibition of such animals, over irregular routes, between Warrenton, Va., on the one hand, and, on the other, points in Illinois and Michigan, and livestock, other than ordinary livestock, and in connection therewith, personal effects of attendants, and supplies and equipment used in the care or exhibition of such animals, between points in Connecticut, Delaware, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia, and the District of Columbia.

No. MC-FC 61797. By order of December 24, 1958, the Transfer Board approved the transfer to McCormack-Payton Storage & Moving Company, a Corporation, 8701 Prospect, Kansas City, Missouri, of a certificate in No. MC 51669, issued December 14, 1954, and subsequently acquired by Peck Transportation, Inc., 170 South Forge Street, Akron, Ohio, authorizing the transportation of household goods, as defined by the Commission, over irregular routes, between points in Summit County, Ohio, on the one hand, and, on the other, St. Louis, Mo., and points in Illinois, Indiana, Delaware, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

No. MC-FC 61802. By order of December 31, 1958, the Transfer Board approved the transfer to Joseph Eletto, Valley Stream, Long Island, New York, of Certificate No. MC 89377, issued August 20, 1942, to Joseph Cory, doing business as Rapid Carriers & Distributors, Brooklyn, N. Y., authorizing the transportation of new furniture, over irregular routes, from New York, N. Y., to points in that part of New Jersey and New York within 35 miles of New York, with no transportation on return. Morris Honig, 150 Broadway, New York 38, N. Y., for applicants.

No. MC-FC 61805. By order of December 31, 1958, the Transfer Board approved the transfer to Joseph Cory Delivery Service, Inc., Brooklyn, N. Y., of Certificate No. MC 27580 issued August 18, 1958, to Pirone Motor Transport, Inc., Brooklyn, N. Y., authorizing the transportation of uncrated new furniture, over irregular routes, from New York, N. Y., to points in New York, New Jersey, Connecticut, and Pennsylvania, with no transportation on return. Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica 32, N. Y., for transferor. Mor-

ris Honig, 150 Broadway, New York, N. Y., for transferee.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F. R. Doc. 59-238; Filed, Jan. 9, 1959;  
8:46 a. m.]

#### FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 7, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

##### LONG-AND-SHORT HAUL

FSA No. 35170: *Gypsumboard from Pryor, Okla., to Akron, N. Y.* Filed by Southwestern Freight Bureau, Agent (No. B-7452), for interested rail carriers. Rates on gypsumboard paper, carloads from Pryor, Okla., to Akron, N. Y.

Grounds for relief: Market competition.

Tariff: Supplement 37 to Southwestern Lines tariff I. C. C. 5215.

FSA No. 35171: *Substituted service, rail for motor, Pennsylvania R. R.* Filed by the Eastern Central Motor Carriers Association, Inc., Agent (No. 101) for interested carriers. Rates on various commodities loaded on highway trailers and transported on railroad flat cars between Toledo, Ohio, on the one hand, and Kearny, N. J., or Philadelphia, Pa., on the other.

Grounds for relief: Motor truck competition.

FSA No. 35172: *Fibreboard boxes or cartons from Fremont, Nebr.* Filed by Western Trunk Line Committee, Agent (No. A-2034), for interested rail carriers. Rates on boxes or cartons, fibreboard, pulpboard, or strawboard, carloads from Fremont, Nebr. to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, and Wisconsin.

Grounds for relief: Short line distance formula, grouping, and market competition.

Tariff: Supplement 84 to Western Trunk Line Committee tariff I. C. C. No. A-4082.

By the Commission.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F. R. Doc. 59-237; Filed, Jan. 9, 1959;  
8:46 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 24NY-4556]

WEY-DO MANUFACTURING CO., INC.

Notice of and Order for Hearing

JANUARY 6, 1959.

I: Wey-Do Manufacturing Co., Inc., a New York corporation, 40 Remsen

Street, Brooklyn 1, New York, filed with the Commission on August 16, 1957, a notification on Form 1-A and subsequently filed amendments thereto, relating to a proposed public offering of 1,000 shares of common stock, no par value, at \$50 a share or \$50,000 in the aggregate, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A promulgated thereunder; and

II. The Commission on November 21, 1958 issued an order pursuant to Rule 261 of the General Rules and Regulations under the Securities Act of 1933, as amended, temporarily suspending the conditional exemption under Regulation A, and affording to any person having an interest therein an opportunity to request a hearing pursuant to Rule 261. A written request for hearing was received by the Commission.

The Commission, deeming it necessary and appropriate to determine whether to vacate the temporary suspension order or to enter an order permanently suspending the exemption,

*It is hereby ordered*, That a hearing under the applicable provisions of the Securities Act of 1933, as amended, and the rules of the Commission be held at the New York Regional Office of the Commission, 23d Floor, 225 Broadway, New York 7, New York, at 10:00 a. m. February 5, 1959, with respect to the following matters and questions without prejudice, however, to the specification of additional issues which may be presented in these proceedings:

A. Whether the conditional exemption provided by Regulation A is not available for the securities purported to be offered in that:

1. The terms and conditions of Regulation A have not been complied with, in that:

a. The notification fails to state therein each of the jurisdictions in which the securities are to be offered as required by Item 1; and

b. The offering circular fails to disclose:

(1) The amount of expenses of the issuer in connection with the offering.

(2) The method by which the securities will be offered.

(3) A reasonably itemized statement of the purposes for which the net cash proceeds to the issuer from the sale of the securities are to be used, the amount to be used for each such purpose and the order of priority of such use.

(4) The aggregate annual remuneration of all directors and officers of the issuer as a group and the annual remuneration of each of the three highest-paid officers of the issuer.

(5) All direct and indirect material interests (by security holdings or otherwise) of each officer and director of the issuer.

(6) The percentage of outstanding securities of the issuer which will be held by officers, directors and promoters as a group, and the percentage of such securities which will be held by the public if all the securities to be offered under this regulation are sold, and the respective

amounts of cash paid therefor by such group and by the public.

(7) The issuer's contingent liability under Section 12 of the Securities Act of 1933, in connection with securities sold within one year in violation of section 5 of said Act.

(8) Financial statements required by paragraph 11 of Schedule I.

2. The offering would be in violation of section 17 of the Act.

B. Whether the order dated November 21, 1958 temporarily suspending the exemption under Regulation A should be vacated or made permanent.

III. *It is further ordered*, That William W. Swift or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing, and any officer or officers so designated to preside at any such hearing are hereby authorized to exercise all of the powers granted to the Commission under sections 19 (b), 21 and 22 (c) of the Securities Act of 1933, as amended, and to hearing officers under the Commission's rules of practice.

*It is further ordered*, That the Secretary of the Commission shall serve a copy of this order by registered mail on Wey-Do Manufacturing Co., Inc., that notice of the entering of this order shall be given to all persons by general release of the Commission and by publication in the FEDERAL REGISTER. Any person who desires to be heard or otherwise wishes to participate in such hearing shall file with the Secretary of the Commission on or before January 30, 1959 a request relative thereto as provided in Rule XVII of the Commission's rules of practice.

By the Commission.

[SEAL] ORVAL L. DuBois,  
Secretary.

[F. R. Doc. 59-244; Filed, Jan. 9, 1959;  
8:48 a. m.]

[File No. 812-1198]

# AMERICAN-SOUTH AFRICAN INVESTMENT CO., LTD.

## Notice of Filing of Application for Order Permitting Consummation in South Africa of Certain Transactions in South African Treasury Bills

JANUARY 5, 1959.

Notice is hereby given that American-South African Investment Company, Limited ("Applicant"), a registered closed-end diversified investment company chartered under the Companies Act of 1926, as amended, of the Union of South Africa ("South Africa"), has filed an application for an order under section 7 (d) of the Investment Company Act of 1940 ("Act") permitting Applicant through its custodian or its custodian's agent to consummate in South Africa the purchase and sale of South African Treasury Bills from and to the South African Treasury or the South African Reserve Bank and to take certain action in connection with such transactions, as described below.

The Commission on August 13, 1958, issued an order pursuant to the provi-

sions of section 7 (d) of the Act granting an application of Applicant to register as an investment company under the Act and to make a public offering of its securities in the United States by use of the mails and means or instrumentalities of interstate commerce. (Investment Company Act Release No. 2756.) Said application stated, among other things, that so long as Applicant is registered under the Act, Applicant's memorandum and Articles of Association, taken together, will contain in substance the provisions set forth in subparagraph (8) of paragraph (b) of Rule N-7D-1 under the Act, and that neither will be amended in any manner inconsistent therewith unless authorized by the Commission. Said subparagraph and Applicant's Articles of Association and custodian agreement require that the custodian of Applicant shall maintain in its sole custody in the United States all of Applicant's securities and cash, other than cash necessary to meet Applicant's current administrative expenses, and that the custodian shall consummate all purchases and sales of securities by Applicant, other than purchases and sales on an established securities exchange, through the delivery of securities and receipt of cash, or vice versa, within the United States.

The application granted by the Commission also stated in subparagraph (9) of paragraph 6 that all contracts of the Applicant, other than those executed on a national securities exchange or the London or Johannesburg Stock Exchange which do not involve affiliated persons, will provide that (A) such contracts irrespective of the place of their execution or performance, will be performed in accordance with the requirements of the 1940 Act, the Securities Act, and the Securities Exchange Act, as amended, if the subject matter of such contracts is within the purview of such Acts; and (B) in effecting the purchase or sale of assets the parties thereto will utilize the United States mails or means of interstate commerce.

It is the investment policy of Applicant to invest in common shares of companies engaged in the gold mining or other businesses in South Africa, and Applicant contemplates that the major portion of its assets will consist of securities listed on the Johannesburg Stock Exchange. Applicant states that the investment in such securities of the proceeds of approximately \$31,000,000 from the sale of its common stock in September 1958 has presented a serious problem because of the limited volume of trading on the Johannesburg Stock Exchange. In an effort to meet this investment problem, Applicant negotiated certain contracts and options pursuant to which it purchased substantial blocks of shares off the exchange. It purchased additional shares on the exchange and also purchased a South African Treasury Bill as a temporary investment in order to earn a return on funds which would otherwise be uninvested. However, Applicant does not believe that it will, for a considerable time to come, or from time to time upon reinvestment of the proceeds of sales, be able to acquire sufficient long-term in-



vestments so as to have all of its available funds invested in them. It therefore proposes, as provided in its investment policy, that during such periods it will invest temporarily in Treasury Bills issued by the Government of South Africa.

The South African Reserve Bank, which customarily offers South African Treasury Bills for tenders every week, has informed Applicant that in the future it will not ship any Treasury Bills out of South Africa so as to permit consummation of purchases by Applicant in the United States as required by Applicant's Articles of Association and custodian agreement, as described above. In addition, Applicant states that the South African Reserve Bank offers South African Treasury Bills for tenders on its own terms so that it would be impracticable for Applicant to insert in any contract relating to the purchase of such Treasury Bills any terms or conditions not customarily included therein by the South African Reserve Bank, such as provided in subparagraph (9) of paragraph 6 of the application granted by the Commission, as described above. Applicant believes that the purchase and sale of such Treasury Bills as proposed are not within the purview of the Securities Act or the Securities Exchange Act, and that if they are within the purview of the Investment Company Act of 1940 they are not of a type that would be inconsistent with the objectives of that Act.

Applicant requests that an order be entered by the Commission under section 7 (d) of the Act (a) permitting Applicant through its custodian or its custodian's agent (which it is contemplated will be a South African company which is a wholly owned subsidiary of an American bank) to consummate in South Africa the purchase and sale of South African Treasury Bills from and to the South African Treasury or the South African Reserve Bank, and (b) authorizing Applicant to take the necessary action in connection therewith to amend its Articles of Association and its custodian agreement and to omit from any contracts relating to such purchase and sale of South African Treasury Bills the provisions set forth in subparagraph (9) of paragraph 6 of the application of Applicant granted by the Commission on August 13, 1958. Applicant states that its custodian will, upon consummation of purchases and sales of such Treasury Bills in South Africa, hold such Treasury Bills and the proceeds thereof in its custody in the United States as in the case of Applicant's other assets.

Section 7 (d) of the Act, among other things, authorizes the Commission, upon application, to issue a conditional or unconditional order permitting a foreign investment company to register under the Act and to make a public offering of its securities by use of the mails and means or instrumentalities of interstate commerce, if the Commission finds that, by reason of special circumstances or arrangements, it is both legally and prac-

tically feasible effectively to enforce the provisions of the Act against such company and that the issuance of such order is otherwise consistent with the public interest and the protection of investors. Since the proposals herein would represent a modification of the agreements and undertakings upon the basis of which the Commission granted the application for Applicant's registration, such modification would require approval pursuant to the provisions of section 7 (d) of the Act.

Notice is further given that any interested person may, not later than January 19, 1959, at 5:30 p. m. submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the Act.

By the Commission,

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 59-245; Filed, Jan. 9, 1959;  
8:48 a. m.]

## DEPARTMENT OF JUSTICE

### Office of Alien Property

[Dissolution Order 122]

### GARDES REALTY CORP.

Whereas, by virtue of the issuance of Vesting Order No. 4115, dated September 9, 1944 (9 F. R. 12045), and other actions taken under the Trading With the Enemy Act, as amended, the Attorney General of the United States (hereinafter referred to as "Attorney General"), successor to the Alien Property Custodian, is the owner of all of the issued and outstanding capital stock of Gardes Realty Corporation (hereinafter sometimes referred to as the "Corporation"), a corporation organized under the laws of the State of New York; and

Whereas, the Corporation has been substantially liquidated;

Now, therefore, under the authority of the Trading With the Enemy Act, as amended, and Executive Orders 9095, as amended, and 9788, and pursuant to law, the undersigned, after investigation:

1. Finding that the assets of the Corporation consist of cash in the amount of \$10,556.98; and

2. Finding that the claims of all known creditors have been paid, except such claim, if any, as the Attorney General may have for moneys advanced or services rendered to or on behalf of the Corporation; and

3. Having determined that it is in the national interest of the United States that the Corporation be dissolved, that its affairs be wound up and that its assets be distributed, and a Certificate of Dissolution of the Corporation having been issued by the Secretary of State of the State of New York;

Hereby orders, That the officers and directors of the Corporation (to wit: Stanley B. Reid, President and Director, Lewis M. Reed, Treasurer and Director, and their successors or any of them) wind up the affairs of Gardes Realty Corporation and distribute the assets of the Corporation coming into their possession as follows:

(a) They shall first pay all current expenses and necessary charges of winding up the affairs of the Corporation; and

(b) They shall then pay all known federal, state, and local taxes and fees, if any, owed by or accruing against the Corporation; and

(c) They shall then pay over, transfer, assign and deliver to the Attorney General all of the funds and property of the Corporation remaining in their hands, the same to be applied first, in satisfaction of such claims as the Attorney General may have for moneys advanced or services rendered by the Alien Property Custodian or the Office of Alien Property to or on behalf of the Corporation, and second, as a liquidating distribution of assets to the Attorney General as sole stockholder of the Corporation; and

Further orders, That nothing herein set forth shall be construed as prejudicing the rights under the Trading With the Enemy Act, as amended, of any person who may have a claim against the Corporation to file such claim with the Attorney General against any assets or property received by the Attorney General hereunder: *Provided, however*, That nothing herein contained shall be construed as creating additional rights in such person: *And provided further*, That any such claim against said Corporation shall be filed with or presented to the Attorney General within the time and in the form and manner prescribed for such claims by the Trading With the Enemy Act, as amended, and applicable regulations and orders issued pursuant thereto; and

Further orders, That all actions taken and acts done by the officers and directors of Gardes Realty Corporation pursuant to this order and the directions contained herein shall be deemed to have been taken and done in reliance on and pursuant to section 5 (b) (2) of the Trading With the Enemy Act, as amended (50 U. S. C. App. 5), and the acquittance and exculpation provided therein.

Executed at Washington, D. C., on December 30, 1958.

For the Attorney General.

[SEAL]

PAUL V. MYRON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 59-241; Filed, Jan. 9, 1959;  
8:47 a. m.]